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THE HISTORY OF ENGLAND FROM THE ACCESSION OF IAMES I TO THE ELEVATION OF THE HOUSE OF HANOVER.

BY CATHARINE MACAULAY.

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TO THE

FIRST EDITION.

THE Author would be wanting in that due reſpect which every individual owes the Public, if ſhe did not acknowledge her grateful ſentiments of the very favorable reception they have given her Firſt Volume. The beſt return ſhe can make to the friends of Liberty and the Conſtitution, is a diligent perfeverance according to the plan laid down in the Introduction.

SHE flatters herſelf that the Second Volume will be received with the ſame candor as the Firſt, knowing that it hath coſt her much more pains and labor---well beſtowed, if they at all contribute to the ends propoſed in this difficult attempt.

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THE period of time in this Volume is ſhort; but the judicious will perceive the difficulty of drawing theſe important tranſactions into a narrower compaſs, without depriving the reader of neceſſary information, and defeating the great intention of the work.

St. James's Place, Jan. 10, 1765.

THE HISTORY OF ENGLAND.

CHARLES I.

CHAP. I.

Attempt to relieve Rochelle.——Death of Buckingham.——Another attempt to relieve Rochelle.——Rochelle taken by the French king.——Peace concluded with France.——Merchants imprisoned.——Wentworth bought off from the popular party.——New session of parliament.——Protestation of the Commons.——Imprisonment of several members.——Dissolution.

THE Petition of Right, though it did not produce a change in the constitution, yet it confirmed to the subject every privilege which their ancestors had, for any length of time, enjoyed since the Norman Conquest had given the fatal blow to that enlarged system of Liberty introduced by the Saxons. Notwithstanding the importance of this event, no less threatning were the symptoms at the breaking up of this parliament, than had been those which attended the Anno 1628.

Anno 1628. preceding ones: A precipitate concluſion] of the ſeſſion; anger and diſtruſt on both ſides; a remonſtrance compoſed of diſgraceful truths, that ſet in a full light the infamous practices, and contemptible management of the government. Had Charles given his extorted aſſent to the Bill of Rights with a ſeeming alacrity, the Commons would have been inclined to have thrown the mantle of oblivion over paſt offences; but his evaſions and delays had not only excited a dangerous jealouſy, but had taken away all pretence of merit from the forced compliance. This headſtrong prince, notwithſtanding he had received the greateſt ſubſidy which was ever granted to any King of England; notwithſtanding the manifeſt indications the parliament had ſhewn, that they intended to give him a legal right to the revenue ariſing from tonnage and poundage; concluded the ſeſſion with indecent warmth, becauſe the Commons had declared that he had no right to ſuch impoſitions without conſent of parliament. Had he ſquared his conduct by the rules of common policy, on the remonſtrance preſented to him on this ſubject, he would have offered to have prolonged the ſeſſion till a bill of tonnage and poundage could have been perfected. This would have diſtreſſed the popular members, who, ſuſpecting that he would ſoon violate the laws he had lately confirmed, when releaſed from the ſhackles of a parliament, wanted to leave him in a ſituation which would render another meeting of this aſſembly neceſſary; and had carefully avoided touching on this captious ſubject till the Petition of Right was clearly paſſed. This ſagacious conduct in the Commons, no doubt, aroſe from the impolitic arguments which had been continually urged by the courtiers to bring them to comply with

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the demands of the crown: They endeavored to intimidate, by repreſenting that if miniſterial meaſures were oppoſed, the King would aſſume every part of the legiſlature, and govern without parliaments. Theſe ſuggeſtions might give warning, but could not ſtrike terror. Such a government muſt ever be regarded as a tyranny, and conſequently its duration be very precarious; whereas if, with a preſervation of the forms of the conſtitution, the Commons had tamely yielded to the King the power he had aſſumed, Liberty would have been irrecoverably loſt, and abſolute monarchy eſtabliſhed by law. Anno 1628.

The numberleſs inſtances in which Charles had violated the laws of the land, rouſed the attention of the nation to develop the real genius of the conſtitution; and the accuracy with which the Commons at this period examined the legal rights of the monarchy, may be attributed to an impolitic exertion of power, which crouded into one point of view all the oppreſſive uſurpations of the crown.

The firſt military exploit the miniſtry engaged in after the diſſolution of the parliament, was an attempt to relieve Rochelle. At the preſſing inſtances of the duke de Soubiſe, and deputies from this town, the earl of Denbigh, with a fleet which conſiſted of ten ſhips of the line, and ſixty ſmaller veſſels, was ſent to ſuccor the beſieged with a recruit of men and victuals. A complication of treachery, ignorance, and cowardice, which appeared in the conduct of this expedition, rendered it abortive; and Charles was either apparently betrayed by his ſervants and creatures, or himſelf an accomplice in a deceit which muſt needs prove the ſhipwreck of his conſcience and his honor, and the diſſipation of that treaſure which he had Attempt to relieve Rochelle.

Anno 1628. Du Cheyne. dearly purchaſed from the laſt parliament. May the firſt, the Engliſh fleet anchored at Charleboy, in the road of Rochelle; on the eighth day, by the means of a high tide, and a ſtrong favorable wind, a ſhallop which carried the news of their arrival, got ſafe into the harbor.

The inhabitants, thus advertiſed of the approach of their allies, erected ſignals on the top of their towers, and diſcharged their cannon, to ſhew that they were ready to attack the enemy, and favor, by a diverſion, the entry of the deſtined ſuccors. After an ineffectual attempt to paſs a bar which the French had made to prevent the paſſage of the Engliſh ſhips, a council of war was called. The majority of the Engliſh captains gave it as their opinion, that the Rochellers had deceived them in their account of the facility of the enterpriſe. The vice-admiral and another officer, named Car, exclaimed againſt the backwardneſs of the reſt; and the French hugonots in the fleet, whoſe whole forces conſiſted of two or three and twenty ſmall veſſels, offered, with the aſſiſtance of four merchant-ſhips well armed, and three fire-ſhips, with a proportionable number of ſoldiers, to fling ſuccors into the place: With this offer the Rochellers agreed to pay for all the Engliſh ſhips which might miſcarry in the attempt. Denbigh excuſed himſelf on the impracticability of it, and on the words of his commiſſion, which were, not to fight unleſs previouſly attacked by the enemy. He obſtinately refuſed to give any aſſiſtance towards the relief of the diſtreſſed town; and notwithſtanding the tears and prayers of the deputies from Rochelle, he ſet ſail and returned to England. On the depoſition of Andrew Le Brun, a Frenchman, concerning Denbigh's remiſſneſs, a letter was ſent by the council to the lord-

Ephemeris Parliamentaria, p. 226, & ſeq.

lord-high-admiral Buckingham, ſignifying, that it was the King's pleaſure that the earl of Denbigh, with an addition to his fleet of other ſhips prepared at Portſmouth and Plymouth, ſhould return back to relieve the town of Rochelle. This mandate was diſobeyed. Denbigh remained at home; and Buckingham, who entertained the project of appearing once more in a military capacity, cauſed ten ſhips to be built, with other preparations towards the fitting out a naval armament which ſhould be equal to the dignity of the commander. The earl of Marlborough, the preſent treaſurer, was diſmiſſed from his office, as a man whoſe frugal diſpoſition might be a bar to the deſtined expence of the expedition; and Sir Richard Weſton, the preſent chancellor of the Exchequer, a notorious Papiſt, and an approved creature of Buckingham, was promoted to the treaſurer's ſtaff, with the title of lord Weſton *. On the vaſt preparations made for this expedition, it is reported that all the ſubſidies given by parliament had been expended.

Anno 1628.

Guthrie, vol. III. p. 888.

Buckingham had repaired to Portſmouth, in order to ſurvey the preparations for the intended embarkation, when, on the twenty-third of Auguſt, whilſt he was talking with warmth to the duke de Soubiſe, and other French officers †, on his inclining his head to give directions to Sir Thomas Fryer, he received a deadly wound from an unſeen hand, which ſtruck a knife into his

Death of Buckingham.

* He was afterwards created earl of Portland.

† Buckingham had been communicating ſome advices he had received, as if a convoy had got into Rochelle. This he communicated to the duke de Soubiſe, and the French gentlemen in his train, who inſiſted with great vehemence that this advice was falſe, and only intended to retard the expedition.

Anno 1628. heart. He withdrew the fatal inſtrument, fell proſtrate on the ground, and expired inſtantaneouſly*, to the ſurprize and horror of the by-ſtanders, who looked with ſuſpicious aſpects on the French gentlemen, whoſe geſticulations had been very vehement in this converſation. The zeal of his attendants, who were running about with drawn ſwords, in queſt of the aſſaſſin, might have been productive of miſchief, if, in the midſt of the confuſion, a hat had not been found, in the inſide of which was ſewed a paper, containing part of that remonſtrance of the Commons which declared the defunct an obſtacle to the peace and ſafety of the kingdom, and the prime cauſe of all its grievances. This diſcovery preſerved the foreigners from the danger of a maſſacre. It was immediately concluded, that the owner of the hat muſt be the murderer. In the midſt of the anxiety which the apprehenſion of not overtaking the fugitive occaſioned, a man ſtepped forth, and preſenting himſelf to the company, ſaid, "I am the perſon who committed the action; let not the innocent ſuffer." This aſſaſſin proved to be one John Felton, a man who was brave, honeſt, and conſcientious; but melancholy, revengeful †, and enthuſiaſtical. He had ſerved in the ſtation of a lieutenant under Buckingham, in his expedition to the Iſle of Rhee, and had con-

Ruſhworth, vol. I. p. 635.

* Clarendon, in his pompous Hiſtory of the Civil Wars, very ſeriouſly tells a long ſtory of the ghoſt of Sir George Villiers, the father of Buckingham, appearing ſeveral times, and prefaging the death of his ſon. *Clarendon's Hiſtory of the Civil Wars*, fol. Ox. 1702, vol. I. p. 34.

† Felton, having received an injury, cut off a piece of his little finger, and ſent it with a challenge to the gentleman who had affronted him, with this meſſage; That he valued not the expoſing his whole body to deſtruction, ſo he might have an opportunity to be revenged. *Ruſhworth*, vol. I. p. 638.

ceived

ceived a perſonal averſion to him for his having promoted an officer over his head *. The loud complaints of the nation, coinciding with his private reſentment, inflamed the melancholy revengeful humors in his compoſition to a black phrenzy, and his enthuſiaſm prompted him to render himſelf, by an indirect means, an inſtrument of juſtice on the declared enemy of the public. Anno 1628.

Thus, by the arm of a melancholy lunatic, fell this object of almoſt-univerſal hatred, George Villiers, duke of Buckingham: a man of memorable inſufficiency as a ſtateſman and a ſoldier, and who, with no other eminent qualities than what were proper to captivate the hearts of the weakeſt part of the female ſex, had been raiſed by theſe qualities to be the ſcourge of three kingdoms; and, by his peſtilent intrigues, the chief cauſe of that diſtreſs which the French Proteſtants at this time languiſhed under: a man, whoſe extraordinary influence over two ſucceſſive princes, will ſerve, among other examples of this kind, as an everlaſting monument of the contemptible government which magnanimous nations muſt ſubmit to, who groan under the mean, though oppreſſive yoke of an arbitrary ſway, entruſted to the caprice of individuals.

The expenſive parade of the courtiers in theſe times, and the glitter which ſurrounded the minions of royalty, can be by no ſingle example ſo fully illuſtrated as by the account of Buckingham's body-ornaments: The jewels he left behind him were eſtimated at three hundred thouſand pounds; a ſum which, at the intereſt mone

* Beſides this injury, he had long waited in vain for n arrears of pay. *Complete Hiſt. of England*, vol. III. p. 45.

Anno 1628. then bore, would have brought in an income of twenty thouſand pounds a-year. Charles was performing a public act of devotion when the death of his favorite was made known to him: The compoſure which appeared in his countenance on the recital of this aſſaſſination, gave the by-ſtanders a notion that he was not diſpleaſed with an incident which rid him of the man who effectually deprived him of the love and good opinion of his ſubjects. His after-deportment convinced the public, that he retained the ſame fond affection to his memory which he had ſhewn to his perſon. He not only continued to heap favors on his whole tribe of kindred, but on all thoſe dependants who had attached themſelves to his fortune; and paid a vaſt debt which he had contracted *.

Felton was carried to London, where he underwent ſeveral examinations before the council. Laud, who had been lately promoted to the

* Charles was within four miles of Portſmouth when the account of his favorite's death was made known to him. He was on his knees at prayers; no diſcompoſure appeared in his actions, nor alteration in his countenance, till the ſervice was over, when he retired to his chamber, and threw himſelf on his bed; where he gave vent to his ſorrow in a flood of tears, and paſſionate expreſſions of regard to the memory of the deceaſed. *Clarend. Hiſt.* vol. I. p. 25.

It was reported that Charles, to ſhew his affection for his departed favorite, gave a command for a magnificent funeral. The treaſurer diverted the project by telling him, that the teſtimony of his favor would be more laſting, if, inſtead of that tranſitory pomp, he was to erect a ſtately monument to his memory. Charles aſſented to this propoſal; but when he renewed the ſubject of the monument, the treaſurer evaded the King's intention by the following ſpeech: "Sir, I am loath to tell your majeſty what the world will ſay, both at home and abroad, if you ſhould raiſe a monument for the duke before you erect one for your father." *The Reign of Charles, by H. L.* fol. ed. 1665, p. 91, *& ſeq.*

biſhopric

bishopric of London, suggested a suspicion that the Puritans were at the bottom of the mischief, and threatened the delinquent with the rack *. Felton told them, that if that was to be his case, he did not know whom he might name in the extremity of torture; and if what he should then say was to go for truth, he could not tell whether his lordship the bishop of London, or which of the lords at the council-board, he might accuse; for torture would draw unexpected things from him. By a resolution of the King and council, the judges were consulted on the question, whether Felton might legally be put to the torture? The judges determined in the negative; and the King graciously declared, that since it could not be done by law, he would not, in this point, use his prerogative. On Thursday, the twenty-seventh of November, Felton was brought to his trial. The unhappy enthusiast felt so exquisite a remorse for the crime he had committed, that on the court's passing sentence of death upon him, he offered that hand to be cut off which did the fact. Though the court disclaimed this request, as not within the compass of the law, and out of their power to grant, Charles sent to the judges to intimate his desire that Felton's hand might be cut off before execution of the sentence of death. The judges returned answer, that the King's will could not be complied with; for in all murders the judgment was the same, unless when the statute of 25 E. III. altered the nature of the offence.

Anno 1628.

Rushworth, vol. I. p. 640. Whitlock, fol. ed. 1682, p. 12.

On the death of Buckingham, the command of the fleet destined for the relief of Rochelle was given

Another attempt to relieve Rochelle. Rym. Fœd. vol. XVIII, p. 1043.

* He had been frequently examined concerning this question, and constantly denied that he had any prompters to this action. *Rushworth*, vol. I. p. 638.

Anno 1628. given to the earl of Lindſey. Notwithſtanding the money which had been already expended, when the ſhips ſtores came to be inſpected, they were found deficient both in quantity and quality; and the preparations were not ready till the eighth of September, when the French had finiſhed a mole acroſs the harbor, which rendered the relief of the town very difficult, if not impoſſible. When the fleet came before Rochelle, they made ſeveral vain attempts on the mole; two days were ſpent in cannonading the works, without damage on either ſide; and the duke de Soubiſe began to ſuſpect that the Engliſh commander, who had ſent ſeveral private meſſages into the French camp, was treating ſeparately with the enemy. On receiving intelligence that the town could not hold out above two days, he offered, with the French ſhips, to attempt the mole, if the Engliſh would promiſe to follow him. The count of Laval propoſed, with artificial mines, contrived in three ſhips lined with bricks, to attempt to blow it up. Both theſe propoſals were rejected in a council of war, and more time conſumed in fruitleſs cannonading. The Engliſh captains in the fleet, who had been all of Buckingham's nomination, and who had hitherto refuſed to aſſent to any effectual method of combating the obſtacles which prevented the flinging in relief to the town, at length determined, in a council of war, to make one deciſive attack. Before this could be put in execution, Rochelle was forced to capitulate *. It exhibited a ſcene of

Rochelle taken by the French king.

* Guiton, the mayor of this town, who had made ſo obſtinate a defence, going in his formalities to receive the conquerors, was told by Richlieu, that he muſt diſmiſs his halberdiers, for the king would be ſole maſter and mayor of Rochelle. He anſwered, with a ſpirit truly noble, "If I had known you would not have kept your word with me, the burghers

misery which even pride, bigotry, and the luſt of power, could not behold without emotions of compaſſion. The vain-glorious Richlieu, in the midſt of his exultations for the ſucceſs of his projects to forge everlaſting chains for his countrymen, with his pupil-monarch, bred in the ſchool of deſpotiſm, and trained in thoſe principles of tyranny which render conſcience an accomplice to acts of cruelty and injuſtice, on viewing this horrid theatre of human ſufferings expreſſed ſome marks of ſorrow and regret. Of twenty-two thouſand perſons who had been ſhut up in the town, four thouſand alone ſurvived the hardſhips which they had undergone. The living not being in number ſufficient, or in a condition to bury the dead, vermin and birds of prey fed on the expoſed carcaſſes. The dying carried their own coffins into the church-yards, and there lay down and breathed their laſt. Rats, dogs, cats, mice, human fleſh, and other diſtaſteful food, had been the only proviſion on which theſe martyrs to the cauſe of Religion and Liberty had for ſome time fed. The few inhabitants who ſurvived theſe miſeries appeared like the ſkeletons of men. The ſtory of their ſufferings ſhews the mighty influence which virtue has over a people actuated by a juſt ſenſe of Freedom; that it not only over-ballances every motive of ſelf-preſervation, ſubdues thoſe frailties which are inſeparable from humanity, but raiſes the mind above the ſenſe of evils which are the moſt inſupportable to the nature of man. Rochelle thus reduced in the face of the Engliſh, their fleet ſailed home; and the French monarch, with his miniſter Richlieu,

Anno 1628.

Ruſhworth, vol. I. p. 636.

Sanderſon, p. 127. Hiſt. of King Charles, by H. L. p. 93.

Larrey, 2nd ed. 1716, vol. I. p. 206.

burghers ſhould have defended themſelves to the laſt man, and I would then have buried myſelf under the ruins of the town." *Larrey*, vol. I. p. 207.

entered

Anno 1628. entered the conquered town, where they re-eſtabliſhed the exerciſe of the Roman-Catholic religion, deſtroyed the fortifications, and deprived the inhabitants of all the privileges they had enjoyed from the edict of Nantes in the year 1598 *. Lewis, who had obtained a complete victory over a handful of brave men, ſhut up within the walls of a town, beſieged by land and by ſea with the whole force of the French nation, returned to Paris, in which place he triumphed with as much oſtentation as if he had defended his country from a formidable invaſion.

The reduction of Rochelle, the ſtrongeſt town which the French Proteſtants poſſeſſed, and the only remaining bulwark of Gallic liberty, was an irrecoverable blow to the reformed, and a neceſſary ſtep towards the eſtabliſhed deſpotiſm of the French monarchy. The bigotry of its ſubjects, notwithſtanding that the conſequences of this cataſtrophe were obvious, aſſiſted their ſovereign in this fatal conqueſt with an admired alacrity; one ſenſible Frenchman, the mareſchal de Baſſompiere, alone excepted, who ſaid, "I think we ſhall be at laſt ſuch fools as to take Rochelle."

Echard, fol. ed. 1720, p. 440.

On the return of the fleet to England, the earl of Lindſey made ſundry complaints on the behavior of his officers, of the badneſs of the proviſions, tackle, and other neceſſaries for the expedition. An enquiry was ordered on the report of theſe particulars: After ſome of the officers had been confined a ſhort time, and com-

Ruſhworth.

* The original edict was veſted in the hands of the Rochellers, who preſerved it in their town, till its deſtruction, as a ſacred depoſit. In this fortreſs the reformed held their ſynods, and all thoſe general aſſemblies in which they conſulted on their common intereſt. *Mezeri*, vol. VII. p. 154, *& ſeq.*

miſſions

missions issued to try others, the affair was entirely dropped. Many historians have charged Charles with the guilt of being an accessary to the destruction of the town of Rochelle. If we acquit him of this black treachery, it must be at the expence of his understanding. It appears plainly, that, if his intentions were honest, he was grosly abused by the people he trusted. Whether the remissness of their conduct was occasioned by the intrigues of the queen his wife, who had now gained a mighty influence over him; whether it proceeded from Buckingham, whom report avers to have sacrificed Rochelle to the cajolements of the court of France, and to the romantic project of an amorous connection with the French queen *, must be left to conjecture; since record does not afford sufficient authorities to warrant an historian's giving either of the two reasons for matter of fact. Whether it proceeded alone from a palpable cause, that the men trusted with the execution of public affairs were incapable of performing any enterprize of importance, certain it is, that the Rochellers had endured all their extreme miseries through the promises of Charles, and had been prevailed on to commence hostilities, not only

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* An author, very partial to the Stewart family, relates, that in the unfortunate expedition to the Isle of Rhee, Toras, the commander of the French garrison, being much pressed with famine, sent a message of surrender to Buckingham. Buckingham returned answer, that he doubted not but they were too courageous, and of greater fidelity to their king, than to render their castle; but since they were obliged to yield to necessity, they should have honorable terms. On this, another message was sent to Buckingham, to name his conditions. He deferred doing it, and the French found means to fling succors into the castle. *Sanderson's Reign of K. Charles*, p. 91.

by

Anno 1628. by the circumſtances of their affairs, but by the united force of the moſt earneſt perſuaſions, and the moſt flattering aſſurances of protection from the king of England.

Ruſhworth, vol. I. p. 636. The perſecution of the reformed churches was ſo violent, after the reduction of this fortreſs, that they were again obliged to implore aid of Charles; this they did in theſe terms; "That what they wrote was with their tears and their blood." This emphatical expreſſion had no effect: a treaty of peace was now on foot between the two crowns; it was concluded in the beginning of the following year, without any ſtipulations for the intereſt or the preſervation of the French Proteſtants, though the eleventh article of the treaty between Charles and the Rochellers is expreſly as follows: "And in caſe it ſhall ſo happen that his majeſty ſhall hereafter lend an ear to propoſals of peace with the Moſt Chriſtian king, the ſaid people of Rochelle ſhall be called to the conferences, and no treaty ſhall be concluded without expreſs ſtipulations that their privileges and immunities ſhall be preſerved to them, according to the inſtructions they are to furniſh on that head. His majeſty farther obliges himſelf to guarantee the ſaid treaty to them." This treaty of peace between the two crowns of France and England, in which Charles ſo baſely deſerted the Rochellers, contrary to the articles of alliance, was in agitation before the death of Buckingham; and it was with a view to this treaty that he was appointed to ſerve in the laſt expedition *. The Venetian miniſter managed the negociation, and brought it to ſuch a

Peace concluded with France.

Du Cheyne, p. 1219, & ſeq.

Id. p. 1221.

* On the ſubject of this treaty, the firſt miniſter of both kings were to have an interview at the head of the fleets and armies of the reſpective nations. *Hiſtorical Preface to Sir Dudley Carleton's Letters*, p. 31.

forwardneſs

forwardneſs in two conferences, one with the King and the other with the duke, that the latter agreed to conclude the whole before he ſailed; and the lord Dorcheſter was ſent to him from the court the very morning on which he was aſſaſſinated, when going to take horſe to finiſh the buſineſs in his maſter's cloſet. This ſecret negociation, tranſacted without the knowledge of the Rochellers, at a time when they expected, from the faith of promiſes, written with Charles's own hand *, a vigorous aſſiſtance, is a very ſuſpicious circumſtance, and renders it probable that his intentions were not honeſt with regard to this ſuffering deluded people, and that they were to be the neceſſary ſacrifice to the intended peace. The French afterwards inſiſted on the reſtitution of Canada, and Acadia, taken from them in this year

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* The following are two letters from Charles to the Rochellers, on the return of that fleet which was ſent to their ſuccour under the command of the earl of Denbigh.

"Gentlemen,

"I have been troubled to hear that my fleet was upon the point of returning without anſwering my commands, which were to force the entry of your proviſions, whatever came of it; and have given it new orders to return into your road, and not ſtir till it has relieved you with victuals, or that I have ſent them an additional ſtrength, for which I have cauſed men to work with all diligence. Be aſſured that I will never abandon you, and that I will employ all the force in my kingdom for your deliverance, until it pleaſe God to bleſs me with giving you an aſſured peace."

"Gentlemen,

"Be not diſcomforted, though my fleet be returned; hold out to the laſt; for I am reſolved that all my fleet ſhall periſh, rather than you ſhall not be relieved; and to this end I have countermanded it, and have ſent ſhips to make them change their deſign that they had taken to come back. I ſhall ſhortly ſend you ſome number of ſhips to reinforce it; and, with the help of God, the ſucceſs will be happy for your deliverance." *Guthrie*, vol. III. p. 887. *Larrey*, vol. I. p. 201.

1628;

Anno 1628. 1628; the only advantage which Great Britain had gained in the courſe of this diſgraceful war.

The unhappy fate of the Rochellers, and the miſerable ſituation of the reformed churches, could not fail of exciting in the Engliſh a freſh diſguſt at the conduct of the miniſtry: this was inflamed by many other cauſes of complaint. Charles, who had in ſome meaſure been the means of fixing the French monarchy on the baſis of an eſtabliſhed deſpotiſm, ſeemed at preſent more than ever determined to raiſe his own government to the ſame ſublime height of tyranny, and had digeſted his former projects into a more regular plan of execution. The ſoldiers who returned from the Rochelle expedition were not diſbanded *, but quartered in different parts of the kingdom; ſome were ſent into the Iſle of Wight, ſome into Eſſex, where they committed great outrages.

Merchants impriſoned. Since the laſt ſeſſion of parliament, ſeveral wine-merchants had been committed to the Fleet for refuſing to ſubmit to an impoſition of twenty ſhillings on the ton; and Charles declared in full council, that it was his abſolute will and pleaſure, that a new duty of two ſhillings and two pence the hundred on currants ſhould be added to the old one of three ſhillings and four pence. Richard Chambers, a merchant, was committed to the Marſhalſea priſon, for ſaying, "That greater impoſitions were required of the merchants in Eng-

* About this time, thoſe troops who had ſerved abroad under the command of Sir Charles Morgan, and who had a long time with great bravery defended Stoad (ſituated about twenty miles from Hamburgh, on the other ſide of the Elbe) after its ſurrender were ſent to the king of Denmark, for the defence of Luckſtat; and the thouſand horſe levied in Germany, for the ſervice of Charles, entered into the pay of the king of Sweden and the duke of Savoy. *Ruſhworth*, vol. I. p. 637.

land

land than in any other place, and that they were more ſcrewed up than the Turk." Theſe words not having been expreſſed in the return of the writ, it was judged inſufficient, and the warden of the priſon directed to mend it: But the priſoner was adviſed by the court to ſubmit to the lords of the council, and petition them for his enlargement. Before this time and his ſecond return, Mr. Jermyn, the counſel for the priſoner, moved that he might be diſmiſſed or bailed, as it appeared by the return he was not committed for treaſon, and that the return did not ſhew what the words were, whereto he might give anſwer. The King's attorney deſired he might have time to conſider of the return, and be informed of the words; and that, in the interim, the priſoner to attend the council-table, and petition. The priſoner ſtood upon the juſtice of the law, and the inheritance of the ſubject. On his importunity, the court commanded him to be bailed*; but withal told him, that he was indebted to the clemency of the court, it being in their power to draw an indictment againſt him, if they would, for contemptuous words. The judges, on account of the bailing of Chambers, were ſent for to attend the lord-keeper, the lord-treaſurer, the lord-privy-ſeal, and the chancellor of the duchy. The lord-keeper declared to them, that the enlargement of Chambers was without due regard had to the privy-council, they not having been previouſly made acquainted with it. The judges excuſed themſelves by ſaying, that the lord-chief-juſtice had acquainted the lord-keeper in private,

Anno 1628.

* On a recognizance of four hundred pounds: four ſecurities were bound in a recognizance of an hundred pounds each. *Ruſhworth*, vol. I. p. 640.

Anno 1628. before they had proceeded to bail the party; and moreover added, that what they had done in that affair was according to law, juſtice, and conſcience. On this they were told, that it was neceſſary, for the preſervation of the ſtate, that the power and dignity of the council-table ſhould be preſerved, and that it could not be done without a correſpondency from the courts of juſtice.—The attorney-general exhibited an information in the Exchequer againſt Samuel Vaſſal, a merchant of London, for refuſing to pay the new duty of five ſhillings and ſix pence on every hundred weight of currants*. To this information Vaſſal pleaded the ſtatute of Magna Charta, and the ſtatute *de tallagio non concedendo*; and that this duty was impoſed without aſſent of parliament. The barons of the Exchequer refuſed to hear Vaſſal's counſel argue for him; and ſaid that the King was in poſſeſſion, and they would keep him in it†. On this they ſent Vaſſal to priſon, and gave judgment for the King.—The goods of one Rolls, a merchant, and a member of parliament, were likewiſe ſeized, and the ſame judgment given againſt him in the Exchequer. Thoſe groveling inſtruments of oppreſſion, the officers of the

* The information ſet forth, that king James did, by his letters patent, command the taking the ſaid impoſitions; that his majeſty that now is, by his letters patent dated the 26th of June, 2 Caroli, did, by the advice of his privy-council, declare his will and pleaſure to be, that ſubſidies, cuſtoms, and impoſts, ſhould be levied in ſuch manner as they were in the time of king James, until it might receive a ſettling by parliament; that the ſaid Samuel Vaſſal, before the 1ſt day of October, 4 Car. did bring into the port of London four thouſand ſix hundred and thirty-eight hundred weight of currants, for which he refuſed to pay duty. *Ruſhworth*, vol. I. p. 641.

† Vaſſal's goods had been ſeized and lodged in the Cuſtom-houſe.

cuſtoms,

cuſtoms, who, in proportion to the baſeneſs of their education, are inſolent in office, ſaid, with unprecedented impudence, "if all the parliaments were in you we would take your goods." Anno 1628.

—Divers merchandizes belonging to the forementioned Richard Chambers, having been ſeized in the ſame manner, he ſued forth a writ of replevin to regain poſſeſſion: The barons of the Exchequer ſent an injunction under the ſeal of their court, commanding the ſheriff not to execute the writ, or any the like writs of replevin which ſhould be afterwards ſued forth for the delivery of any goods in the like nature detained; and declared in court that ſuch goods were not repleviable by law. On this, the ſheriffs of London refuſed to execute the writ of replevin. Chambers, finding it impoſſible to obtain juſtice, offered to give ſecurity for the payment of the duties which were demanded: The court refuſed to take his ſecurity, and directed the officers of the cuſtoms to detain double the value of the ſums which had been by them demanded, and to reſtore the reſidue.—To theſe acts of violence committed againſt the London merchants, the court gave another cauſe of diſguſt, by levying an oppreſſive fine on the occaſion of a riot, in which one Lamb, a ſuppoſed conjuror*, and a creature of the duke of Buckingham, was killed.

* This Lamb was notorious for an ill fame. As he was coming from the playhouſe one evening, the rabble gathered thick about him, and reviled him with the appellation of witch, devil, and the duke's conjuror. He took ſanctuary at a vintner's, who, fearing that his houſe would be pulled down by the violence of the tumult, thruſt him out; whereupon the mob, ſeeing that the city-guard were coming to his reſcue, fell upon him, and bruiſed him in ſuch a manner that he died the ſame night. The city of London endeavoured to find out the moſt active perſons in this riot, but the agreſſors were ſo faithful to each other that no witneſs appeared againſt any individual.

Anno 1628. Dr. Manwaring's ſermons were ſuppreſſed by proclamation *; but himſelf, who had been diſabled from eccleſiaſtical preferments in the church of England by cenſure of parliament, was preſented to the rich endowment of the rectory of Stamford-Rivers in Eſſex, and had a diſpenſation to hold it with that of St. Giles in the Fields †. About the ſame time, Mountague, the author of that noxious performance entitled Appello Cæſarem ‡, was preferred to the biſhopric of Chi-

Rym. Fœd. vol. XIX. p. 26.

The court, who looked upon this action as an inſult on the favorite, fined the city ſix thouſand pounds. *Complete Hiſt.* vol. III. p. 45. *Ruſhworth*, vol. I. p. 618.

* In the beginning of this proclamation the King declares, that the grounds of the ſermon were rightly laid to perſuade obedience from the ſubjects to their ſovereign, and that for conſcience ſake. At the ſame time came out two proclamations concerning recuſants: One for the apprehending of Richard Smith, titular biſhop of Calcedon, and other prieſts and Jeſuits who had taken orders by authority from the ſee of Rome; and another declaring the King's pleaſure for proceding with Popiſh recuſants, and directions to his commiſſioners for making compoſitions for two parts in three of their eſtates due by law: Theſe proclamations gave little ſatisfaction; the firſt becauſe the delinquents taken were thought to be treated too favorably, and the ſecond for the ſame reaſon; viz. The recuſants got off upon eaſy terms, by means of compoſitions at under-value, and by letters of grace and protection to the moſt wealthy. According to Prynne, the proclamation againſt the biſhop of Calcedon was procured at the earneſt ſolicitations of the regular prieſts in England and Ireland, who violently oppoſed Smith's epiſcopal juriſdiction. *Ruſhworth*, vol. I. p. 633. *Rymer's Fœdera* vol. XVIII. p. 1024, 1037. vol. XIX. p. 6.

† He was afterwards promoted to the deanry of Worceſter, and finally to the biſhopric of St. David's. *Heylin's Life of Laud*, p. 180.

‡ This book was wrote on the following occaſion: Two divines of the Norwich dioceſe, Yates and Ward, had informed againſt Mountague's dangerous errors of Arminianiſm and Popery, diſſeminated through a work which he had publiſhed, in anſwer to one which had been written by the Papiſts, called the Gagger of Proteſtants. Mountague wrote this ſecond work

chester. A proclamation * was issued to call in his book, with a prohibition against preaching and writing *pro* or *con* on the subject. Before this was done, the edition of Mountague's book had been vended, and out of risk of seizure; but it effectually suppressed the several answers to it, written by Dr. Goad, Dr. Featly, Burton, Ward, Yates, Wotton, and Francis Rouse, Esq. Divers of the printers of these performances were questioned in the High-commission court. Anno 1628.

Laud was now, on the death of Buckingham, become supreme favorite †. Before the meeting of the parliament, which had been prorogued from the twentieth of October to the twentieth of January, Charles held a consultation with his cabinet-council. Here a settled plan of action was determined for the ensuing session, in what manner the servants of the crown were to behave in particular cases: That if the house of Commons urged the delivery of the merchants goods before they proceeded on the bill of tonnage and poundage, then the answer of the privy-counsellors to be as follows: That if the house intend to grant tonnage and

work to vindicate his principles. He dedicated it to the King, and entitled it Appello Cæsarem; applying the words which had been once used to Lewis of Bavere, emperor of Germany; *Domine Imperator, defende me gladio & ego te defendam calamo*. "Lord Emperor, defend me with thy sword, and I will defend thee with my pen." *Fuller's Church Hist.* ed. 1655, book xi. p. 119.

* To both Manwaring and Mountague was granted a royal pardon of all errors heretofore committed by them, either in speaking, writing, or printing, for which they could be any way liable to be hereafter questioned. *Complete Hist. of England*, vol. III. p. 53.

† William, earl of Pembroke, the chancellor of Oxford, to flatter Charles, committed his power over the university to Laud; who this year framed statutes for limiting the free election of proctors. *Rushworth*, vol. I. p. 637. *Laud's Diary, in the Breviate of his Life by Prynne*, p. 15.

Anno 1628. poundage to the King, as it hath been granted to his predeceſſors, it will end all diſputes. If this anſwer did not ſatisfy, then the King was to declare, that if they would paſs the bill in the ſame manner as his anceſtors had it *, he would graciouſly acknowledge the holding it by grant of parliament. If this was refuſed, then to avow a breach! To complete this kingly plan, a bill of tonnage and poundage was to be prepared by the miniſtry, before the parliament met. Other matters were likewiſe taken into conſideration: That ſhould the parliament proceed to cenſure the actions of the late duke of Buckingham; to accuſe upon common fame the King's ſervants now living; to charge them with ill counſel to the King; to handle matters of religion, only proper for his majeſty and a convocation to determine; to raiſe objections againſt his majeſty's ſpeech the laſt day of the laſt ſeſſion, as trenching upon the liberty of the ſubject; in theſe and the like caſes ſhould the houſe proceed towards a reſolution, then the privy-counſellors who were of that houſe were to intimate that ſuch debates would tend towards a breach, and would not be admitted: on this the King was to declare that he would not ſuffer ſuch irregular courſes of proceeding.

It was not without ſome grounds that the reſolutions of the miniſtry were thus arrogant and aſſuming. They had at this time, with the bribe of a peerage, and the preſidentſhip of the council in the northern parts, bought off from the popular party Sir Thomas Wentworth †, a man

Rym. Fœd. vol. XIX. p. 9.

* That is, without guarding the ſubject from arbitrary impoſitions, not limited by parliament.

† He was at firſt created Baron Wentworth of Wentworth Wood Houſe, and then a viſcount.

whoſe

whoſe principles of oppoſition had been ſtrongly ſtimulated on an envious pique againſt Sir John Saville, a neighbor of his, an avowed creature of the court *, whoſe favor from Buckingham had Anno 1628.

* Sir John Saville had been formerly of the popular party. The ſame means had been taken to debauch him from a ſenſe of duty to the public as were now practiſed to entice Sir Thomas Wentworth; viz. loading him with court-preferment. He was firſt made comptroller of the houſhold, and then created a peer.

It appears by Letters and Diſpatches of Thomas Earl of Strafford, publiſhed by William Knowles in 1739, that there had formerly ſubſiſted a kind of intimacy between the two families of the Savilles and the Wentworths, and that this continued while they were both in the oppoſition. Sir John Saville, on ſome threatenings from the court, made a voluntary reſignation of his place of cuſtos rotulorum to Sir Thomas Wentworth. When Sir John Saville was taken into favor, on the terms of his apoſtacy, Buckingham demanded of Sir Thomas Wentworth that he ſhould yield this place again to Sir John Saville. Hence aroſe Wentworth's animoſity to Saville, who from this period till the apoſtacy of the former, received, to the great diſguſt of his rival, continued inſtances of favor and partiality. The following inſtance of Wentworth's inveteracy to Saville ſhews the character of the former in a ſtrong light, that all his pretended notions of Juſtice and Liberty were put on to indulge ſome preſent paſſion, or proſpect of future advantage. Sir Thomas Wentworth and Sir George Calvert, ſecretary of ſtate, ſtood in the year 1620 for knights of the ſhire for the county of York. Sir Thomas Wentworth had heard that Sir John Saville intended to propoſe himſelf to the county, and on this intelligence writes in the following manner to Sir George Calvert: "Sir John Saville is by his inſtruments exceeding buſy, intimating to the common ſort, under-hand, that yourſelf, being not reſiente in the county, cannot by law be choſen; and being his majeſty's ſecretary, and a ſtranger, one not ſafe to be truſted in the county: but all this, according to his manner, ſo cloſely and cunningly, as if he had no part therein; neither doth he as yet farther declare himſelf, but only that he will be at York the day of election: And thus finding he cannot work them from me, labors only to ſupplant you. I endeavor to meet with him as well as I may, and omit nothing which my poor underſtanding tells me may do you ſervice. My lord-preſident hath writ to his freeholders on

Anno 1628. given Wentworth ſuch diſguſt, that he put himſelf at the head of the country intereſt in that

your behalf; and ſeeing he will be in town on the election-day, it were, I think, very good he would be pleaſed to ſhew himſelf for you in the Caſtle-yard, and that you writ unto him a few lines, taking notice you hear of ſome oppoſition, and therefore deſire his preſence might ſecure you of fair carriage in the choice. I have heard that when Sir Francis Darcy oppoſed Sir Thomas Lake in a matter of like nature, the lords of the council writ to Sir Francis to deſiſt. I know my lord-chancellor is very ſenſible of you in this buſineſs: A word to him, and ſuch a letter would make an end of all."

The following letter, of Sir Arthur Ingram to Sir Thomas Wentworth, ſhews, that the latter had at this time a view of making uſe of his intereſt in the county, to render himſelf of conſequence enough to be bribed by the court.

Sir Arthur Ingram to Sir Thomas Wentworth.

"I find your and my good friend removed from his place, and the ſeal given to Sir Thomas Coventry. By this you and I both have loſt a worthy and good friend; but it is eaſier in theſe times to loſe a good friend than to get one: But theſe be things of the world, in which a man's beſt help is patience. Another good friend of yours, which is my lord-marſhal*, hath the hand of the great duke upon him, who hath brought the King that he will hardly ſpeak to him. The man who hath done you much wrong, both to the King and him, is the chancellor of the duchy; but, on my creed, you are much beholden to the chancellor of the Exchequer, who hath done you good offices with the King, and will continue the ſame upon all occaſions."

*Lord Arundel.

The good friend firſt mentioned was Williams, at this time lord-keeper. He had made ſeveral propoſals to Buckingham to engage Sir Thomas Wentworth to his party, by granting him court-favor: Theſe propoſals Buckingham rejected with diſdain, and the decline of the keeper's influence retarded the meaſure till after the death of Buckingham. Sir Thomas Wentworth, in a letter to Sir Richard Weſton, chancellor of the Exchequer, relates, "That at the diſſolved parliament at Oxford he had been moved from and in behalf of the duke of Buckingham, with promiſe of his good eſteem and favor; that he had anſwered, he honored the duke's perſon, and was ready to ſerve him in the quality of an honeſt man and a gentleman." "You are privy, writes he to Sir Richard Weſton, how I performed what I promiſed. The conſequence of all this was the making me ſheriff the winter after.

It

county, and being a good ſpeaker, had great ſway in the houſe. The frail man was at firſt aſhamed of his apoſtacy *, and concealed his change of ſentiments; but at length pretended to juſtify himſelf by condemning the principles of his former aſſociates. Mr. Pym bad him be at no pains to excuſe his conduct; "You have left us, ſaid he, but I will not leave you whilſt your head is on your ſhoulders †."

Anno 1628. Wentworth's apoſtacy. Echard, vol. II. p. 82.

On the meeting of the parliament ‡, the firſt act of the Commons was to revive all their committees.

New ſeſſion. 20 Jan.

It is true the duke, a little before Whitſuntide laſt, at Whitehall, in your preſence, ſaid it was done without his grace's knowledge; that he was then in Holland. At Whitehall, Eaſter laſt, you brought me to the duke; his grace did before you contract, as he pleaſed to term it, a friendſhip for me; all former miſtakes laid aſleep, forgotten. After I went, at my coming out of town, to receive his commands, to kiſs his grace's hands, where I had all the good words and good uſage that could be expected, which bred in me a great deal of content, a full ſecurity. Now the conſequence here again is, that even yeſterday I received his majeſty's writ for the diſcharging me of the poor place of cuſtos rotulorum, which I held here." Wentworth, thus diſappointed in his hopes of preferment, returned again to his patriotiſm: His ſtiff refuſal of the loan, and his ſpirited conduct in that parliament memorable for paſſing the Petition of Right, was after this period. *Strafford's Letters*, fol. ed. 1739, vol. I. p. 11. 13. 28. 34, *&c. Heylin's Life of Laud*, p. 194.

* This black crime, of proſtituting public virtue to private gain, was not in theſe days countenanced by the number of the offenders.

† When he was about making his peace with the court, he deſired an interview with Pym; diſcourſed with him on the danger they were likely to run, and what advantages they might have, if they would but liſten to ſome offers which would probably be made them from the court. *Wellwood's Mem.* p. 48.

‡ The parliament had been prorogued from the 20th of October to the 20th of January.

Anno 1628. mittees *. They next proceeded to take into conſideration † in what particulars the Liberty of the ſubject had been invaded, contrary to the Petition of Right. It was ordered, that Mr. Selden and others ſhould ſee if that Petition and the anſwer were inrolled in the parliament-rolls and courts at Weſtminſter, according to the promiſe his majeſty had made laſt ſeſſion. On Mr. Selden's report, that the King's ſpeech on the prorogation of the parliament was entered together with the Petition, the houſe went into an immediate debate, notwithſtanding a motion of Mr. Pym that it might be deferred till Thurſday, on account of the thinneſs of the aſſembly: "This matter," ſaid Sir John Elliot, "concerns the honor of the houſe, and the Liberties of the kingdom. It is true it deſerves to be deferred till a fuller houſe; but it is good to prepare things, for I find this to be a point of great conſequence. I deſire, therefore, that a ſelect committee may both enter into conſideration of this, and how other Liberties of this kingdom have been invaded. I find in the country the Petition of Right printed indeed, but with an anſwer which never gave any ſatisfaction. I deſire a committee may conſider thereof, and preſent it to the houſe; and that the printer may be ſent for to give ſatisfaction, and to be examined about it, and to declare by what warrant it was printed." "For this Petition of Right, ſaid Mr. Selden, it is well known how lately it hath been violated ſince our laſt meeting. Our liberties for life, perſon, and freehold, how have they been in-

Proceedings and Debates of the Houſe of Commons, by Sir Thomas Crew, ed. 1707, p. 2, & ſeq.

* On privilege, on religion, on courts of juſtice, on grievances, on trade. *Journals of the Commons*, vol. I. p. 920.

† The whole houſe was reſolved into a committee. *Journals of the Commons*, vol. I. p. 920.

vaded?

vaded? Have not ſome been committed contrary to that petition? Now we know this invaſion, we muſt take notice of it. For liberties in eſtate, we know of an order made in the Exchequer, that a ſheriff was commanded not to execute a replevin; and mens goods are taken away, and muſt not be reſtored. No man ought to loſe life or limb but by the law, and hath not one lately loſt his ears *? Next they will take away our arms, our legs, and our lives. Let all ſee we are ſenſible of this. Cuſtom creeps on us. Let us make a juſt repreſentation to his majeſty." The houſe having given way to Sir John Elliot's motion, Norton, the King's printer, was called to the bar, and examined concerning the additional ſpeech printed with the Petition of Right. Mr. Selden and four other members, on a command of the houſe, went home with Mr. Norton, and informed themſelves of the warrants by which he had acted. They reported, that on their examination of Mr. Norton and Mr. Bill, the King's printers, they found that the clerk of the houſe of Lords had ſent the original Petition of Right, with the King's ſecond anſwer to it; that during the ſitting of parliament they had printed about fifteen hundred copies, of which few were divulged; that the day after the ſeſſion was ended, Mr. Attorney ſent for Mr. Bill to his chambers, and told him, by his majeſty's command, that theſe ſhould not be publiſhed, and that the lord-privy-ſeal told him as much; that ſoon after he was ſent for to court, where Mr. Attorney told him, he muſt print the Petition of Right, with his majeſty's firſt anſwer to it, and his laſt ſpeech.

Anno 1628.

* This ſeverity was inflicted on one Savage, by order of the Star-chamber.

On

Anno 1628. Journals of Commons, vol. I. p. 921. Parl. Hiſt. vol. VIII. p. 247. Crew's Debates, p. 5, & ſeq.

On Thurſday the twenty-ſecond, Mr. Rolls, a member, informed the houſe that his goods were ſeized for not paying the cuſtoms demanded, although he offered to pay what the law adjudged to be due. "By this information, ſaid Sir Robert Philips, you ſee the misfortunes of theſe times, and how neceſſary it is for this aſſembly to meet to ſerve his majeſty, and preſerve ourſelves: I am confident we came hither to do both. Great and weighty things wound deep. Caſt your eyes which way you pleaſe, you ſhall ſee violations on all ſides. Look on the liberty of the ſubject, look on the privileges of the houſe; let any ſay if he read or ſaw the like violations by inferior miniſters that over-do their commands. They knew the party was a parliament-man; nay, they ſaid, If all the parliament was in him, they would do the thing, and juſtify it. If we ſuffer the liberties of this houſe to wither out of fear, we ſhall give a wound to the happineſs of this kingdom. The courſe of juſtice was intetrupted. Order was made in the Exchequer for the ſtay of the goods; ſince this there has been a ſeizure to the amount of five thouſand pounds, for pretended duties of two hundred. In the firſt of king James, by reaſon of a ſickneſs, the parliament was prorogued, and then there was ſome boldneſs to take tonnage and poundage; and then we queſtioned the men who demanded it, for there was no right to demand it. Let us proceed with perſeverance in our duties to make up breaches; let a committee be appointed to conſider of theſe duties."

Here ſecretary Cook made a ſpeech, recommending moderation. To this Mr. Littleton made the following reply: "We have had moderation preached to us in parliament, and we follow

follow it. I would others did the like out of parliament. Let the parties be ſent for who violated the liberties of parliament, that they may have their doom." Before the houſe came to a reſolution on the ſubject, they were interrupted by a meſſage from the King, which intimated a deſire that farther proceedings ſhould be forborn till the morrow, when his majeſty was reſolved to ſpeak with both houſes in the Banqueting-houſe at Whitehall. Anno 1625. Journals of Commons, vol. I. p. 921.

According to the reſolutions of the privy-council, previous to the meeting of the parliament, Charles addreſſed the Lords and Commons in the following manner: "The care I have to remove all obſtacles which may hinder the good correſpondency, or cauſe a miſunderſtanding, betwixt me and this parliament, made me call you hither at this time, the particular occaſion being a complaint lately moved in the lower houſe. And as for you, my lords of the higher houſe, I am glad to take this, and all other occaſions, whereby you may clearly underſtand both my words and actions; for as you are nearer in degree, ſo you are the fitteſt witneſſes for kings. The complaint I ſpeak of, is for ſtaying of mens goods who deny tonnage and poundage. This may have an eaſy and ſhort concluſion, if my words and actions are rightly underſtood: for by paſſing the bill as my anceſtors have had it, my paſt actions will be concluded, and my future proceedings authorized; which certainly would not have been ſtrucken upon, if men had not imagined that I had taken thoſe duties as appertaining unto my hereditary prerogative, in which they are much deceived; for it ever was, and ſtill is, my meaning, by the gift of my people to enjoy it. And my intention in my ſpeech at the end of the laſt ſeſſion was not Crew's Proceedings of the Houſe of Commons, p. 9, & ſeq.

to

Anno 1628. to challenge tonnage and poundage as of right, but *de bene eſſe*; ſhewing you the neceſſity, not the right, by which I was to take it until you had granted it unto me; aſſuring myſelf, according to your general profeſſions, that you wanted time, and not good-will, to give it me: wherefore, having now opportunity, I expect that, without loſs of time, you make good your former profeſſions; and ſo, by paſſing the bill, to put an end to all queſtions ariſing from this ſubject; eſpecially ſince I have removed the only obſtacle which may trouble you in this buſineſs." Charles ended his ſpeech with blaming the Commons for enquiring into the infractions of the Petition of Right, and recommended a mutual confidence, that this ſeſſion might end in a perfect and good correſpondency between them.

It has been already obſerved, that the Commons aſſerted their right of aſſent to this tax with a view to oppoſe the illegal pretenſions of the crown, and to reſtrain the power it had uſurped of making arbitrary impoſitions on the ſubject. This could no otherwiſe be effected than by making tonnage and poundage a temporary tax, or by paſſing the bill in a manner which ſhould indiſputably fix the rate of cuſtoms as limited by parliament. Former ſovereigns ſtrictly kept to the ſenſe of the obligation. It had never been violated from the time of Edward III. till the reign of Mary. This princeſs's example of laying on one arbitrary impoſition had been ſo much improved by her ſucceſſors, as to have become a heavy burden on trade, and rendered the revenue of the crown too much independent of the parliament for the ſafety of the conſtitution.

This hiſtory, perhaps, does not furniſh us with any ſingle example which more fully expoſes the

the ſhallowneſs of the miniſtry, than the attempt to impoſe this ridiculous expedient mentioned in the King's ſpeech, of ſettling the preſent weighty point in diſpute. Had the parliament paſſed the act in the manner which Charles had dictated, and without reſtitution of the goods taken in the intermediate period, they would not only have given up the means of redreſſing the moſt important grievance of the nation, but would have effectually authorized an example which rendered this unlimited revenue as independent of parliament, as any other of the moſt indiſputable appendages of the crown. If the parliament will accede to the power of laying on impoſitions, Charles graciouſly promiſes to acknowledge that he holds it by ſuch a conceſſion: But this is a privilege I cannot want, ſays he; it is neceſſary to the freedom and grandeur of the monarchy; your obſtinacy in this point juſtifies the taking that from you by force, which it is in your option to make your own act and deed. Might not the ſame powerful arguments be uſed for the taking ſubſidies, or any other violation of the conſtitution? and might it not be ſaid, according to this caſuiſtry, that it was the fault of the parliament if any illegal acts were committed by the government, ſince it was in their power to authorize tyranny, and give the ſtrength of law to uſurpation. Give me your purſe, and you will no longer ſuffer the injury of violence. Surrender willingly your liberty, and what you now complain of as tyranny will become law. Anno 1628.

The Commons took no immediate notice of this conciliating propoſal. They rejected a motion of ſecretary Cook, that the bill of tonnage and poundage might be read, and entered with great warmth on the important point of religion.

This

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Crew's Proceedings and Debates of the Commons, p. 13, & seq.

This debate was opened by Mr. Sherland. It was purſued by Mr. Rouſe *, Mr Pym, and others. "We have of late entered into conſideration of the Petition of Right, ſaid Mr. Rouſe, and the violation of it; and upon good reaſons: for it concerns our goods, liberties, and lives. But there is a right of an higher nature, which preſerves us far greater things, even the eternal life, our ſouls, yea, our God himſelf; a right of religion derivated to us from the King of Kings, confirmed to us by the kings of this kingdom, and enacted by laws in this place, ſtreaming down to us in the blood of martyrs, and witneſſed from Heaven by miracles, even miraculous deliverances. This right, in the name of this nation, I now claim; and deſire that there may be a deep and ſerious conſideration of the violations of it. —Lower natures being backed by higher, increaſe in courage and ſtrength; and certainly man being backed with omnipotency, is a kind of omnipotent creature. All things are poſſible to him who believeth; and where all things are poſſible, there is a kind of omnipotence. Wherefore, let it be now the unanimous conſent and reſolution of us all, to make a vow and covenant from henceforth to hold faſt one God and one religion; and then we may expect proſperity. To this covenant let every one ſay Amen."

In the courſe of this debate, Arminianiſm was termed the ſpawn of Popery; it was affirmed, that the ſucceſs of this doctrine was more to be feared than a ſecond Spaniſh invaſion. Mr. Pym aſſerted, that regulations in religious matters could no where ſo well be determined as in parliament;

* This was, in all probability, the author of one of thoſe anſwers to Mountague's book which had been ſuppreſſed by the miniſtry.

that

that the convocation had not ſuch a power, be- Anno 1628,
cauſe it was but a provincial ſynod; that the high-commiſſion could not, becauſe it had its authority from parliament, and the power of the derivative was inferior to that of the original. Sir Francis Seymour obſerved, that his majeſty's name was uſed to ſtop proceedings againſt Papiſts, contrary to his public profeſſions, nay, to his own proclamations, and inſtructions to the judges. "Whatſoever, added he, is done in the country is undone above."

Both houſes agreed to petition the King for a faſt * on the deplorable ſituation of the reformed churches. Their caſes, ſays the petition, we do with bleeding hearts commiſerate. The King granted this requeſt, but in a manner which did not help to conciliate the affections of the parliament. "The chiefeſt motive of your petition, ſaid he, being the deplorable ſtate of the reformed churches abroad, is but too true; and our duty, ſo much as in us lieth, is to give them all poſſible help. Yet certainly fighting † will do them more good than faſting; and though I do not wholly diſavow the latter, yet I muſt tell you that the cuſtom of faſting every ſeſſion is but lately begun; and I confeſs I am not ſatisfied with the neceſſity of it at this time: yet, to ſhew you how ſmoothly I deſire your buſineſs to go on, eſchewing as much as I can queſtions of jealouſies, I do willingly grant your requeſts herein; but with this note, that I expect that this ſhall never

Calendar of the Journals of the Houſe of Lords, MSS. folio. Parl. Hiſt. vol. VIII. p. 264, & ſeq.

* At the keeping of this faſt, three ſermons were preached before the houſe. *Parl. Hiſt.* vol. VIII. p. 310.

† The recent examples of the expeditions to the Iſle of Rhee and Rochelle ſhew that fighting, under the management and directions of Charles and his miniſtry, had been of little ſervice to them.

Anno 1628. hereafter be brought into a precedent for frequent faſts, except upon great occaſions; and for the form and time, I will adviſe with my lords the biſhops, and then ſend a particular anſwer to both houſes."

A report was made from the committee of religion, that a remonſtrance on that ſubject had been commanded away by the King, for want of which the committee could not proceed. Secretary Cook returned this remonſtrance to the houſe, with a meſſage from the King to the following purport: That he hoped they would proceed with tonnage and poundage, and give precedency to that buſineſs, to put an end to farther diſputes between him and ſome of his ſubjects. Sir Walter Earl moved that religion ſhould have the precedency of all matters. "But let no man miſtake me, ſaid he, as if I were leſs ſenſible of the violations of the ſubjects liberties than any man elſe who ſits here, whoſoever he be. No, Mr. Speaker, I know full well that the cauſe of juſtice is God's cauſe, as well as the cauſe of religion. But what good will thoſe rights and liberties do me or any man elſe who reſolves to live and die a proteſtant? Nay, what good will they do any man who reſolves to live and die a freeman, and not a ſlave, if Popery and Arminianiſm, joining hand in hand, as they do, be a means, together with the Romiſh hierarchy, to bring in a Spaniſh tyranny among us? under which thoſe laws and liberties muſt of neceſſity ceaſe." The houſe aſſented to Sir Walter Earl's propoſal; and moreover, on a ſpirited ſpeech of Sir John Elliot, in which he affirmed, that their faith and religion were in danger by the late declaration publiſhed in the King's name *, they came to a reſolution to make the fol-

* By the advice of Laud, the book of articles was re-printed and publiſhed, with a prohibition prefixed to them, that no doctrine

lowing proteſtation*: "We, the Commons now in parliament aſſembled, do claim, profeſs, and avow for truth, the ſenſe of the articles of religion which were eſtabliſhed in parliament in the reign Anno 1628. Journals of Commons, vol. I. p. 924.

doctrine ſhould be taught which differed in the leaſt from the ſaid articles. A declaration which follows this prohibition is what Sir John Elliot alludes to. The offenſive paſſage is as follows: "That we are ſupreme governors of the church of England; and that if any difference ariſe about the external policy, concerning injunctions, canons, or other conſtitutions whatſoever thereunto belonging, the clergy in their convocation is to order and ſettle them, having firſt obtained leave under our hand and ſeal ſo to do; and we approving their ſaid ordinances and conſtitutions, providing that none be made contrary to the laws and cuſtoms of the land. That out of our princely care that the churchmen may do the work which is proper unto them, the biſhops and clergy from time to time in convocation, upon their humble deſire, ſhall have licence under our broad ſeal to deliberate thereof, and to do all ſuch things, as being made plain by them, and aſſented to by us, ſhall concern the ſettled continuance of the doctrine and diſcipline of the church of England eſtabliſhed; from which we ſhall not endure any variation or parting in the leaſt degree."

"From this declaration, ſaid Sir John Elliot, we are in danger to be ruined and overwhelmed. I beſeech you mark, the ground of our religion is in the articles. If there be any difference of opinions concerning the ſenſe and interpretation of them, the biſhops and clergy in convocation have a power admitted to them to do any thing which ſhall concern the continuance and maintenance of the truth profeſſed; which truth being contained in theſe articles, and theſe articles being different in the ſenſe, if there be any diſpute about that, it is in them to order which way they pleaſe; and, for aught I know, Popery and Arminianiſm may be a ſenſe introduced by them, and then it muſt be received." *Heylin's Life of Laud*, p. 188, *& ſeq. Crew's Proceedings of the Houſe of Commons*, p. 37.

* On biſhop Laud and Mountague being mentioned in the houſe as the adviſers of this declaration, Sir Humphrey May, a privy-counſellor, ſaid, "That though theſe two men had been cenſured by the Commons as Arminians, yet they had on their knees before the King and council, with tears in their eyes, proteſted they hated theſe novelties." *Parl. Hiſt.* vol. VIII. p. 279.

Anno 1628. of our late queen, Elizabeth, which by public act of the church of England, and by the general and concurrent expoſitions of the writers of our church, have been delivered to us; and we do reject the ſenſe of the Jeſuits and Arminians wherein they differ from us." On a ſecond meſſage from the King concerning the precedency of tonnage and poundage, Sir Thomas Edmunds, the treaſurer of the houſhold, attempted to advance the buneſiſs, and reproved the Commons for their delay. He was ſharply anſwered by Mr. Coriton: and the houſe ſent up a kind of apology to the throne, in which they complained that there had been an irregularity, contrary to their privileges, in the bringing in the bill of tonnage and poundage; that the frequent interruptions the King's meſſages occaſioned, forced them to ſpend time in framing apologies, which might be more profitably employed in ſervices of his majeſty and the commonwealth, a duty they had with all diligence applied themſelves to; and having found that religion was threatened with extreme danger, they thought, and ſtill continued to think, that they could not, without impiety to God, diſloyalty to his majeſty, and unfaithfulneſs to thoſe for whom they were put in truſt, retard their proceedings on this point, till ſomething was done to ſecure that which they preferred above their lives, and all earthly things whatſoever.

Crew's Proceedings of Com. p. 41, & ſeq.

Charles, in his anſwer to this apology, affirmed, that he had a prerogative to recommend bills, but diſavowed Cook's offering that of tonnage and poundage in his name: he inſiſted on the ridiculous argument, that the Houſe of Commons were the aggreſſors in the quarrel between him and his ſubjects, ſince it was in their power to put an end to the diſpute, by giving him a right to what he

was

was now obliged to take by violence; and preſſed the giving precedency to tonnage and poundage in preference to religion. Charles's diſavowal obliged the officious ſecretary to make an aukward excuſe to the houſe. He confeſſed, that he had ſaid his majeſty deſired the bill, and that he required it in his majeſty's name; but that he had made uſe of thoſe expreſſions to cut all diſputes ſhort. The ſpirited judicious Sir John Elliot did not fail to make an advantage of this incident. "I find, ſaid he, his majeſty's ears open; and if theſe things be thus as we ſee, that then he is not rightly counſelled. I am confident we ſhall render his majeſty an account of what he expecteth. But, Sir, I apprehend a difference between his majeſty's expreſſion and thoſe of his miniſters. Firſt, that bill was here tendered in his majeſty's name, and now we find that his majeſty diſavows it. What wrong is this done to his majeſty and this houſe, to preſs things in his ſovereign's name, to the prejudice and diſtraction of us all? I think him not worthy to ſit in this houſe." Sir John Finch, the ſpeaker, interfered in favor of Cook. His inſignificant character preſerved him from any farther attack; and the debates of the Commons turned on the King's declaration concerning uniformity in the doctrine of the church. Mr. Coriton ſaid, that it was to ſuppreſs the truth; and that, to the grief of all good men, the profeſſors of Arminianiſm had the preferments in the church. The pardons which had been granted to Mountague, Sibthorp, Manwaring, and Couſins *, were

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Parl. Hiſt. vol. VIII. p. 277, &ſeq.

* Couſins had written a book for the ſuppoſed uſe of the counteſs of Denbigh, the ſiſter of Buckingham. She was ſuſpected of being much inclined to Popery. The book was intitled, "A Collection of private Devotion, or the hours of Prayer." There were in it prayers for the firſt, third, ſixth,

Anno 1628. noticed in the houſe with great diſapprobation: and it was ordered, that a ſub-committee ſhould have power to ſend for the records and privy-ſeal, and other incidents belonging to the pardon; that they ſhould ſend to the parties, and queſtion Mr. Attorney about his knowledge therein, and by whoſe inſtigation they were obtained. Mr. Attorney ſignified, that a warrant was ſent to him, under the King's hand, to draw a pardon; that after he had drawn it, the biſhop of Wincheſter ſent to ſee it, and interlined it; and whereas he had drawn it but for one, Mountague*

and ninth hours, as alſo for the veſpers and compline, known by the name of canonical hours. On the frontiſpiece of this book was the name of Jeſus, figured in three capital letters [I H S] with a croſs upon them, encircled with the ſun ſupported by two angels, and two women praying towards it. This work was looked upon as a preparatory to uſher in the ſuperſtitions of the church of Rome. It was encountered by Prynne and Burton. Prynne charged it for being framed in general according to the horaries and primmers of the church of Rome. Prynne dedicated this charge to the parliament, who cenſured Couſins as a churchman tainted with Popiſh opinions. *Heylin's Life of Laud*, p. 173, *& ſeq.*

* The houſe attempted to annul Mountague's conſecration, on ſome irregularities in the manner of it. It was an ancient cuſtom, that the election of all biſhops in the province of Canterbury was ſolemnly confirmed by the archbiſhop, or his vicar-general, in the court of the arches held in St. Mary's church in Cheapſide. At and before this confirmation, there was public notice given, that if any perſon knew any thing to object againſt the party elected, or the legality of his election, he ſhould come and tender his exceptions. This ſignification being made, as Mountague ſtood ready to be confirmed, one Jones, accompanied with many more, excepted againſt him, on account of the Popery, Arminianiſm, and other heterodoxies, for which his books had been condemned in parliament; and chiefly on account of the cenſures of that court, which had rendered him incapable of church-preferment. Brent, the vicar-general, had devolved his office for that time on Dr. Reeves, the King's advocate, who evaded the intention, by proceeding with the confirmation on pretence that the exceptions

put four in it; viz. himſelf, Couſins, Sibthorp, and Manwaring. On this occaſion, Oliver Cromwell, a member of the houſe, ſhewed how very active the biſhop of Wincheſter had been in the favor which had been ſhewn to Manwaring, and that he gave countenance to miniſters who preached flat Popery. Parl. Hiſt. vol. VIII. p. 289.

Whilſt the Commons were on theſe matters of religion, an information was brought in from Mr. Rolls, that ſince his laſt complaint of the breach of the liberties of parliament, his warehouſe had been locked up by one Maſſey, a purſuivant; and that the day before he had been called forth from the committee in the Exchequer-chamber, and ſerved with a ſubpœna to appear in the Star-chamber; but the attorney-general had ſince ſent him word that it was a miſtake. The houſe voted this a breach of their privileges. Skemington, the meſſenger who ſerved the ſubpœna, was ſent for. Mr. Selden obſerved, that the ill-judged lenity they had hitherto ſhewn was the occaſion of the late af- Journals of Com. vol. I. p. 928. Crew's Proceedings of Com. p. 67, & ſeq.

ceptions were deficient in point of form; viz. Not ſigned by the hand of an advocate, nor preſented by any of the proctors authorized to attend that court. This difficulty over, Mountague haſtened to his conſecration, which was performed at Croydon, Laud and Neile aſſiſting at it.

On theſe grounds the Commons objected to the legality of Mountague's conſecration; this they waved on a motion of Sir Henry Marten, who affirmed, that by the common law the proclamation ſhould only be at the cathedral-church of the dioceſe where the biſhop was to be elected; and that the dean, chapter, and clergy, were the only perſons who could legally except. Beſides, added he, I conceive it is plain, that the King and the law have power to deprive him of his biſhopric, if he deſerve the ſame: therefore it were good to decline this diſpute for the preſent, and to ſeek to remove him. *Heylin's Life of Laud*, p. 185, *& ſeq. Parl. Hiſt.* vol. VIII. p. 285. *Fuller's Church Hiſt.* p. 131, *& ſeq.*

Anno 1628. front *. The grievances of the other merchants were now enquired into: Sheriff Acton, who had behaved in a contemptuous manner, was ſent to the Tower. On this caſe, Mr. Selden ſaid, he remembered when the houſe committed both the ſheriffs of London to the Tower for an abuſe of a leſs nature; only for countenancing a ſerjeant in an arreſt on a member of parliament, though they did acknowledge their faults at the bar, which this man had not done.

The houſe next took into conſideration a petition of the bookſellers and printers, concerning their having been purſuivanted for printing orthodox books; and that licenſing of books was now reſtrained to the biſhop of London and his chaplains. Mr. Selden moved, that a law might be made to remedy this evil. He ſaid, that there was no law in England to prevent the printing of any book, and no other authority for ſuch a reſtraint but a decree of the Star-chamber. That a man in this caſe ſhould be fined, impriſoned, and have his goods taken from him, was a great invaſion on the liberty of the ſubject. Mr. Kirton obſerved, that Couſins had cauſed the book of Common-Prayer to be newly printed, and had changed the word Miniſter into the word Prieſt; and had put out, in another place, the word Elect †; that his lordſhip the biſhop of Wincheſter, though he had leaped through many

* Mr. Selden reported from the committee appointed to examine this matter, that the proceſs againſt Rolls was made out by warrant under Mr. Attorney's own hand. *Journals of the Commons*, vol. I. p. 929.

† A ſelect committee was ordered to take conſideration of the differences in the impreſſion of the thirty-nine articles, eſtabliſhed by act of parliament, 13 Eliz. *Journals of the Commons*, vol. I. p. 926.

biſhoprics,

biſhoprics *, yet he had left Popery behind him in every one. A complaint was preferred againſt this prelate by one Dr. Moore, who reported that the biſhop had told him, that times were altered; that he muſt not preach againſt Papiſts now; that he, Moore, had a brother who preached againſt bowing at the name of Jeſus, which he liked not; and that the communion-table ſtood as in an alehouſe, but he would have them ſet as high altars. Anno 1628. Journ. Com. vol. I. p. 930. Parl. Hiſt. vol. VIII. p. 293.

The houſe began to grow warm on this ſubject of religious grievance: "If we ſpeak not now, ſaid Sir Walter Earl, we may for ever after hold our peace; when, beſides the queen's maſs, there are two other maſſes daily in the queen's court; ſo that it is grown common in diſcourſe, Will you go to maſs? or, Have you been at maſs in Somerſet-Houſe? there coming five hundred at a time from maſs. I deſire it may be known by what warrant the Jeſuits, lately in Newgate, were releaſed?" Mr. Coriton moved, that the King's late declaration might be taken into ſerious conſideration. Sir Richard Groſvenor, after having related the proceedings againſt Popery laſt ſeſſion, with the King's ſeveral promiſes on that head, ſhewed, that all the evils then complained of were not leſſened but increaſed. "To theſe griefs and diſcouragements, added he, I find an addition of that nature which threatens the very ruin and deſolation of us all: This is the countenancing and preferring of a plotting, undermining, and dangerous ſect of upſtart divines. You remember, Mr. Speaker, what care and pains this houſe took (as a matter of great conſequence) to frame a charge Parl. Hiſt. vol. VIII. p. 293. & ſeq.

* Rocheſter, Litchfield and Coventry, Lincoln.

againſt

Anno 1628. againſt Mountague; yet was this man, ſhortly after the ending of the ſeſſion, dignified with the ſacred title of a biſhop; and biſhop of that ſee wherein his predeceſſor * (a grave and orthodox prelate) had labored, both by his pen and doctrine, to ſtrangle thoſe errors and confute Mountague. Another alſo of his own profeſſion, little better than himſelf, I mean time-pleaſing Manwaring, hath alſo taſted extraordinary favor. This man attempted to make his holy function a means to ſeduce the King's conſcience, to miſguide his judgment, to diſjoint his affection from his people, to avert his mind from calling of parliaments: the particulars of his damned doctrine are yet freſh in our memory. They who go about thus to ſeduce and corrupt a prince deſerve to be hated of all men, as much as thoſe who attempt to poiſon a public ſpring or fountain, of which all drink. For this offence he received a juſt but moderate cenſure. One particular was, that he ſhould be diſabled for ever from holding any eccleſiaſtical dignity in the church: Yet was this man, immediately after our riſing, releaſed from his impriſonment; obtained his pardon in folio; was preferred to a rich living, and (if ſome ſay true) cheriſheth aſſured hopes of dignity in the church. If theſe be ſteps to eccleſiaſtical preferments, God be merciful to thoſe churches who fall under the government and feeding of ſuch a clergy!"

* Carleton.

Sir Robert Philips ſaid, that the increaſe of Papiſts was by connivance from perſons in authority; that nine hundred and forty Engliſh, Scots, and Iriſh Papiſts, were maintained in the Netherlands by their brethren in England.

An order paſſed, that all members of the houſe who had any letters, or copies of letters, written

for

for ſtay of proſecution for proceeding againſt Papiſts, ſhould bring them into the ſub-committee for religion. Mr. Coriton moved, that they ſhould, by ſome law or act of ſtate, remove from their offices thoſe Papiſts whom they had juſt cauſe to ſuſpect. On a motion of Mr. Selden, the houſe went on an enquiry concerning an undue releaſe of ſome Jeſuits who had been arraigned at Newgate, and had formed themſelves into a ſociety at Clerkenwell. In this caſe, ſecretary Cook, who, though an arrant court-tool, ſeems to have been very averſe to the profeſſors of Popery, gave a detail of theſe Jeſuits, which inflamed the reſentment of the houſe on account of the favor which had been ſhewn them. In the courſe of this enquiry, the attorney-general, the earl of Dorſet, and the lord-chief-juſtice of the Common-Pleas *, fell under ſevere cenſures.

Anno 1628.

Journals of the Commons, vol. I. p. 932.

* Richardſon.

Notwithſtanding the warmth of theſe debates on religious grievances, the Commons did not forget the important point of privilege, and the illegal violence which had been uſed in exacting tonnage and poundage. At a grand committee on this queſtion, Mr. Coriton moved, that the goods which had been taken from the merchants, ſhould be reſtored to them before they went upon that bill. "Kings, ſaid he, ought not, by the laws of God, to oppreſs their ſubjects. I know we have a good king, and this is the advice of his wicked miniſters; but there is nothing can be more diſhonorable to him." Mr. Waller obſerved, that there was not fewer than five hundred merchants threatened in this dealing. Mr. Noy ſaid, that they could not ſafely give, unleſs they had poſſeſſion, the proceedings in the Exchequer nullified, alſo the informations in the Star-chamber, and the annexations to the Petition

Anno 1628. tion of Right. "I will not give my voice to this bill, added he, unleſs theſe interruptions be declared in it. That the King hath no right but by our free gift: If it will not be accepted as it is fit for us to give, we cannot help it. If it be the King's already, as by their new records it ſeemeth to be, we need not give it." Mr. Selden ſeconded a motion of ſending a meſſage to the Exchequer. He mentioned a precedent of a meſſage ſent into the Chancery for a ſtay of proceedings, and that the meſſage was obeyed. "What anſwer ſoever the judges return, adds he, it cannot prejudice us: the law ſpeaks by the records; and if theſe records remain, they will to poſterity preſerve the law." "For the point of right, ſaid Mr. Littleton, there is no lawyer ſo ignorant to conceive it, nor judge of the land to affirm it: I am againſt giving to the King, or going on with the bill. In this caſe, by the law, a man cannot be put to a petition of right, but ſhall recover without petition." "The merchants, ſaid Sir John Elliot, are not only kept from their goods by the cuſtomers, but by a pretended juſtice. I conceive, if the judges of that court of Exchequer had their underſtandings enlightened of their error by this houſe, they would reform the ſame, and the merchants thereby come by their goods." The reſult of the debate was a meſſage ſent to the court of Exchequer, requiring them to make void their orders and affidavits in the buſineſs of the merchants.

Journals of the Com. vol. I. p. 929. On a motion of Sir John Elliot, concerning the privilege of merchants, the houſe paſſed an order that a man having a plaint depending there, he ſhould be privileged in his perſon, though not freed from ſuits; and that an intimation ſhould be given the lord-keeper, that no attachment ſhould

ſhould go forth againſt the merchants *, during the privilege granted them in parliament. The barons of the Exchequer returned an anſwer, in which they inſiſted that their proceedings had been regular; that they did not determine, nor any ways trench upon, the right of tonnage and poundage; that they had declared the ſame openly in the court at the making thoſe orders; that they had not, by the ſame orders and injunctions, barred the owners of the ſaid goods to ſue for the ſame in a lawful courſe; but that writs or plaints of replevin was no lawful action or courſe in the King's cauſe, nor agreeable to the prerogative †. On the report of this meſſage, the houſe came to a reſolution to ſend for Sir John Wolſtenholme, Daws, and Carmarthen, the three farmers of the cuſtoms, to their bar. Daws informed them, that the King, a few days before, had ordered him to make no other anſwer but that the goods were taken for ſuch duties as were due in king James's time. Sir John Wolſtenholme pleaded the ſame command; but moreover ſaid, that he ſought not to farm the cuſtoms; and had told the King, being ſent for, that he was not willing to deal therein, until the parliament had granted it. The other two acknowledged the ſeizing the goods, though they knew that Rolls was a parliament-man. They all three ſaid, that they did not conceive any privilege of

Anno 1628.

Crew's Proceedings of the Houſe of Commons, p. 96, & ſeq.

Parl. Hiſt. vol. VIII. p. 310, & ſeq.

* An information had been preſented againſt Mr. Chambers for refuſing to pay tonnage and poundage, while his petition of relief was lodged in parliament. *Journals of the Commons*, vol. I. p. 931.

† Oldmixon makes a very apt remark on this anſwer of the barons of the Exchequer: "That the merchants had been impriſoned and plundered for refuſing to pay a tax which the judges durſt not determine they ought to pay." *Oldmixon's Hiſt. of the Stewarts*, fol. ed. 1730, p. 104.

the

Anno 1628. the parliament to lie againſt the King * in that caſe.

The houſe ſoon put the King's name out of the queſtion, and fell into a high debate concerning their privileges. Mr. Littleton argued, that all privileges were allowed for the benefit of the commonwealth; that the parliament's privilege was above any other, and the parliament could only decide on the privilege of parliament, not any other judge or court; that there was a law which made it high treaſon to kill a parliament-man; and that all privilege was good, unleſs in caſes of high treaſon, felony, or breach of the peace. Sir John Elliot declared, that the commonwealth received life from the privileges of the Houſe of Commons.

Parl. Hiſt. vol. VIII. p. 313.

It was reſolved on the queſtion, that Mr. Rolls ſhould have privilege of parliament for his goods ſeized the thirtieth of October †. When they were going to proceed on the delinquency of the

* On the examination of the cuſtomers, the King's warrant was read in the houſe. "Whereas the lords of the council, taking into conſideration our revenue, and finding that tonnage and poundage is a principal revenue of our crown, and hath been many ages, have therefore ordered, &c. Know ye that we, by the advice of the lords of our council, do declare our will hereby, that all thoſe duties be levied and collected as they were in the time of our ſaid father, and in ſuch manner as we ſhall appoint. And if any perſon refuſe to pay, then our will is, that the lords of the council, and the treaſurer, ſhall commit to priſon ſuch ſo refuſing, until they conform themſelves. And we give full power to all our officers to receive, levy, and collect; and we command our barons and officers from time to time to give all aſſiſtance to the farmers of the ſame, as fully as when they were collected by authority of parliaments."

† When the queſtion of privilege was argued, an order paſſed the houſe, that no member ſhould go out of town without leave, and every member after nine o'clock ſhould attend. *Journals of the Commons*, vol. I. p. 919.

farmers

farmers of the cuſtoms, they were interrupted by ſecretary Cook, who told them from the King, that what had been done by his farmers and officers of the cuſtoms had been done by his own direction and commandment; and therefore he could not in this ſever the act of his officers from his own act; neither could his officers ſuffer for it, without high diſhonor to majeſty. Anno 1628. Journals of Commons, vol. I. p. 932.

This meſſage was received with ſuch indignation, that the Commons, with almoſt a general voice, cried out, "adjourn, adjourn." On their re-meeting, on the twenty-fifth of February, after reading certain articles * concerning the dangers Hiſtory of Charles, by H. L. p. 19.

* Among theſe articles were the following ones; viz. Erecting altars: changing the uſual and preſcribed manner of placing the communion-table, and ſetting it at the upper end of the chancel, North and South, in imitation of the high alters, adorning it with candleſticks, making obeiſance by bowing to it: commanding men to ſtand up at *Gloria, Patria*: bringing men to queſtion and trouble for not obeying that command, for which there is no authority: enjoining that no women be churched without a veil: ſetting up pictures, lights, and images in churches: praying towards the Eaſt: croſſing at *Omnem motum & geſtum*: the ſuppreſſing and reſtraints of the orthodox doctrine contained in the articles of religion, confirmed the thirteenth of Elizabeth; publiſhing books, and preaching ſermons, contrary to the former orthodox doctrine: the preferring thoſe who are known to be unſound in religion: inſtance Mr. Mountague, made biſhop of Chicheſter; the late biſhop of Carliſle, advanced to the biſhopric of Norwich; a known Arminian made biſhop of Ely; the biſhop of Oxford, a long-ſuſpected Papiſt, advanced to the biſhopric of Durham; Mr. Couſins advanced to dignity and a great living; Dr. Wren made dean of Windſor, and one of the High-commiſſion court.

Dr. Wren was one of the chaplains whom James ſent into Spain to his ſon, as a man whoſe principles did not differ widely from the ceremonies of the Romiſh worſhip. The following curious articles are among the inſtructions which were given him relative to his office: That the room appointed for prayers ſhould be adorned chapel-wiſe, with an altar, fonts, palls, linen-coverings, demy-carpet, candleſtics, tapers, chalices, pattens,

Anno 1628. of Popery and Arminianiſm, they were farther adjourned, by the King's command, till the ſecond of March.

Crew's Proceedings of Com. p. 145, & ſeq.

On this day, Sir John Elliot, after prayers were ended, addreſſed the houſe in the following manner: "The misfortunes we ſuffer are many: Arminianiſm undermines us; Popery comes in upon us. They maſk not in ſtrange diſguiſes, but expoſe themſelves to the view of the world. In the ſearch of theſe, we have fixed our eyes not on the actors, the Jeſuits and prieſts, but upon their maſters, thoſe who are in authority: thence it cometh we ſuffer; the fear of theſe makes our interruptions. You have ſome prelates who are their abettors; the great biſhop of Wincheſter, we know what he hath done to favor them. This fear extends to ſome others; the lord-treaſurer, in whoſe perſon all evil is contracted, both for the innovation of our religion, and invaſion of our liberties: he is a great enemy of the commonwealth. I have traced him in all his actions, and I find him building on thoſe grounds laid by his maſter, the great duke: he ſecretly is moving for this interruption. And from this fear they go about to break parliaments, leſt parliaments ſhould break them. I find him the head of all

pattens, a fine towel for the prince, other towels for the houſhold, a traverſe of water for the communion, a baſon and flaggon, two copes; that every one be uncovered at prayer, kneeling at due times, ſtanding up at the name of Jeſus; that the communion be celebrated in due form, with an oblation of every communicant, and admixing water with the wine: the communion to be as often uſed as it ſhall pleaſe the prince to ſet down; ſmooth wafers to be uſed for the bread; that they carry the articles of our religion in many copies, the books of Common-Prayer in ſeveral languages, ſtore of Engliſh ſervice-books, the King's own works in Engliſh and Latin. *Parl. Hiſt.* vol. VIII. p. 319, & *ſeq.* *Heylin's Life of Laud*, p. 106.

that

that party, the Papiſts; and all the Jeſuits and priests derive from him their ſhelter and protection. And I proteſt, as I am a gentleman, if my fortune ſhall be ever again to meet in this honorable aſſembly, where I now leave I ſhall begin again." Anno 1628.

On this ſpeech of Sir John Elliot, the ſpeaker, fearing the houſe would come to ſome ſpirited reſolution, delivered from his chair a meſſage from the King to adjourn till the Tueſday ſevennight. Notwithſtanding this interruption, Sir John Elliot offered a remonſtrance on tonnage and poundage *. The popular members objected, that it was not the office of the ſpeaker to deliver any ſuch command; that the adjournment of the houſe properly belonged to the houſe itſelf †; and after they had ſettled ſome things they thought convenient to be ſpoken of, they would ſatisfy the King. The remonſtrance on tonnage and poundage was again offered to be put to the queſtion; but the ſpeaker refuſed, ſaying, he was commanded otherwiſe by the

* This remonſtrance, after ſhewing the illegality of taking tonnage and poundage without grant of parliament, ends in the following manner: "And therefore moſt humbly beſeech your majeſty to forbear any farther receiving the ſame; and not to take it in ill part from thoſe of your majeſty's loving ſubjects who ſhall refuſe to make payment of any ſuch charges, without warrant of law demanded; and as by this forbearance your moſt excellent majeſty ſhall manifeſt unto the world your royal juſtice in the obſervation of your laws, ſo they doubt not but hereafter, at the time appointed for their coming again, they ſhall have occaſion to expreſs their great deſire to advance your majeſty's honor and profit." *Parl. Hiſt.* vol. VIII. p. 330.

† The twelfth and eighteenth of James, the houſe reſolved, that it was in their power to adjourn or ſit. Sir Edward Coke ſaid, the King makes a prorogation, the houſe adjourns itſelf. A commiſſion of adjournment the houſe never read; but ſay, the houſe adjourns itſelf.

Anno 1628. King. This drew a ſharp reprimand from Mr. Selden. Sir John Finch, trembling, replied, that he had an expreſs command from the King, ſo ſoon as he had delivered his meſſage to riſe. On this he left his chair, but was drawn to it again by Mr. Holles, ſon to the earl of Clare, and Mr. Valentine. Sir Thomas Edmunds, and other creatures of the court, endeavored to free the ſpeaker; the popular party kept him in the chair, and Mr. Holles ſwore he ſhould ſit ſtill till it pleaſed the houſe to riſe. "I do not ſay I will not, ſays the ſpeaker, ſobbing; I dare not. Do not command my ruin. I dare not ſin againſt the command of my ſovereign." Mr. Selden, with many ſtrong arguments, endeavored to rouſe a ſenſe of virtue in him; but he ſtill refuſed, though with extremity of weeping and ſupplica-
Of Kent. tory orations, to proceed on his duty. Sir Peter Hayman, a countryman and relation of his, told him, that he was ſorry he was his kinſman; that he was the diſgrace of his country, and a blot to his family; that all the inconveniences which ſhould follow (yea, their deſtruction) ſhould be derived to poſterity as the iſſue of his baſeneſs; that he would be remembered with ſcorn and diſdain; that ſince he could not be perſuaded to do his duty, he thought fit he ſhould be called to the bar, and a new ſpeaker choſen. Neither
Crew's Proceedings and Debates of the Commons, p. 157, & ſeq. counſel, entreaty, nor threats prevailing, Mr. Holles was required to read the following articles, as the proteſtation of the houſe; viz. *

Proteſtation of the Commons. "Firſt, Whoſoever ſhall bring in innovation in religion, or by favor ſeek to extend or introduce Popery and Arminianiſm, or other opinions

* The clerk, after the example of the ſpeaker, refuſed to read the articles, though he was commanded to read them by the houſe. *Parl. Hiſt.* vol. VIII. p. 327.

diſ-

diſagreeing from the true and orthodox church, Anno 1628.
ſhall be reputed a capital enemy to this kingdom and commonwealth. Secondly, Whoſoever ſhall counſel or adviſe the taking and levying the ſubſidies of tonnage and poundage, not being granted by parliament, or ſhall be an actor or inſtrument therein, ſhall be likewiſe reputed an innovator in the government, and a capital enemy to this kingdom and commonwealth. Thirdly, If any merchant, or other perſon whatſoever, ſhall voluntarily yield or pay the ſaid ſubſidies of tonnage and poundage, not being granted by parliament, he ſhall likewiſe be reputed a betrayer of the liberty of England, and an enemy to the ſame."

After paſſing theſe proteſtations the houſe roſe *.

The King having heard that they had continued to ſit, notwithſtanding his command for the adjournment, ſent a meſſenger for the ſerjeant, with his mace: The houſe ſtayed the ſerjeant, locked the door, and depoſited the key in the hands of one of their members. Not only this meſſenger, but Maxwell, the uſher of the black rod, having been denied entrance, Charles grew into a rage, and directed the captain of the penſioners and guards to force the door. The miſchief which this intended violence might have occaſioned, was prevented by the ſudden riſing of the houſe, which was adjourned to the tenth 2 March.
of March. In the intermediate ſpace, Denzil Hollis, Eſq. Sir Miles Hobart, Sir John Elliot, Sir Peter Hayman, John Selden, William Coriton, Walter Long, William Strode, and Ben-

* On the cloſe of every one of theſe proteſtations, the houſe gave a loud applauſe. *Saunderſon*, p. 131. *Parl. Hiſt.* vol. VIII. p. 332.

Anno 1628. jamin Valentine, Eſqrs. were ordered to appear before the council. Mr. Holles, Sir John Elliot, Mr. Coriton, and Mr. Valentine, attended; but refuſing to anſwer out of parliament, they were committed cloſe priſoners to the Tower. Warrants were at the ſame time iſſued for apprehending the reſt, and for ſealing up their ſtudies *.

Impriſonment of ſeveral members. Rym. Fœd. vol. XIX. p. 64.

* The following are the interrogatories and anſwers which paſſed on this occaſion at the council-board.

Mr. Holles was aſked, why he, contrary to his former uſe, did that morning when the tumult was in the lower houſe of parliament, place himſelf above divers of the privy-counſellors by the chair? He anſwered, that he at ſome other times as well as then ſeated himſelf in that place; and as for his ſitting above the privy-counſellors, he took it to be his due in any place whatſoever, unleſs at the council-board; that he came into the houſe with zeal to do his majeſty ſervice; yet finding his majeſty was now offended with him, he humbly deſired, that he might rather be the ſubject of his mercy than his power. You mean rather of his majeſty's mercy than his juſtice, anſwered the lord-treaſurer. I ſay, of his majeſty's power, replied Mr. Holles.

Sir John Elliot was queſtioned, whether he had not ſpoken ſuch and ſuch words in the lower houſe of parliament? and ſhewed unto the ſaid houſe ſuch and ſuch a paper? He anſwered, that whatſoever was ſaid or done by him in that place, and at that time, was performed by him as a public man, and a member of that houſe; that he was, and always would be, ready to give an account of his ſayings and doings in that place, whenſoever he ſhould be called unto it by that houſe; where, as he took it, he was only to be queſtioned.

Sir Miles Hobart being interrogated concerning his demeanor in the lower houſe of parliament, and for ſhutting the door? anſwered, that he deſired to know by what warrant he was examined to give an account in that place of his actions in parliament, being a member. He believed it was a courſe without a precedent. That no council nor commiſſion could take notice of any thing done in parliament, but a parliament itſelf. Nevertheleſs, he would not ſtick to confeſs, that it was he who ſhut the door that day, and when he had locked the door, he put the key in his pocket; and he did it becauſe the houſe demanded it.

Sir Peter Hayman was aſked, why he reproved the ſpeaker ſo ſharply? He anſwered, becauſe he was the ſpeaker, and

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On the tenth of March the King came to the house of Lords, where, without the ceremony of calling the Commons to the bar, he dissolved the parliament *. In the speech he made on this occasion, he called the party in the opposition vipers; bestowed great praises on his own adherents, and particularly on the house of Lords, whom he commended for a dutiful demeanor. Indeed, the behavior of this body had been so pacific and inoffensive, that in the whole course of this session, during the spirited exertions of the Commons, their proceedings had been wholly confined to the framing a petition, concerning the old grievances of precedency to Scotch and Irish titles. This, they alleged, tended not only to the disservice and prejudice of his majesty, but his realms. Charles sent a civil denial to the petition; and these important pretensions continued yet undetermined.

Anno 1628. Journals of Lords, MSS.

Dissolution of parliament.

Parl. Hist. vol. VIII. p. 250, & seq. Journals of Lords.

Among the animated measures of the lower house which dignify the proceedings of this session,

so the servant of the house, and one who ought to have applied himself to the command of the house; he did it with the more freedom and detestation, because he was his countryman; but yet should have done it to any other man who in the same kind should have deserved it as he did. On being farther demanded, what he would have done himself on being speaker, and commanded by the King to deliver such a message to the house? he answered, he would have thrown himself at his majesty's feet, and having given his majesty to understand that, in respect of his office, he was the most improper and unfit person of any to deliver such a message; he would have most humbly supplicated his majesty to have elected some other to have performed that part.

The parliament was not dissolved when these members were committed prisoners to the Tower. *Parl. Hist.* vol. VIII. p. 354, *& seq. Rushworth.*

* No acts passed this session. A bill to enlarge the liberty of hearing the word of God was among those which went through the lower house.

Anno 1628. the warm debates the Commons had entered into on thoſe innovations in the doctrines and forms of religion which had been introduced by Laud, Neile, Manwaring, and other bigoted prieſts, has been ſeverely cenſured by ſenſible and candid writers. Had this circumſtance been examined with that accuracy which the importance of it demands, theſe active patriots, who, to ſerve the beſt purpoſes, metamorphoſed themſelves into mere gownmen, would not only have been juſtified from acting on the narrow principles of religious bigotry, but would, from this exertion of their theological talents, appear poſſeſſed of an eſſential qualification neceſſary to form able legiſlators. Superſtition, that weakneſs inſeparable from the mind of man, has, from the firſt period of recorded time, been the quality the moſt fatally inſtrumental in degrading his nature to an abject, yet willing dependence, on the creature of his own rank; and, overturning divine and moral law, has fixed an acknowledged inferiority where God has marked equality. Every eſtabliſhed form of worſhip has, for theſe reaſons, been ſubordinate to the purpoſes of policy; and the engine religion been uſed with never-failing ſucceſs to enſlave the many to the few, and to fix on the firm baſis of conſcience, tyrannies irreconcileable to the wiſdom of God, the dignity of human nature, and the welfare of mankind. Modes of faith powerfully operate on every government; and the eccleſiaſtical conſtitution of a country has an irreſiſtible influence on the political. We muſt conſider, therefore, theſe illuſtrious patriots as combating errors, which, however trivial they may appear on a ſlight view, yet carried with them alarming conſequences to Liberty. The eſſential points of faith in Arminianiſm or Puritaniſm had

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in them nothing repugnant to the freedom of the Anno 1628.
Engliſh conſtitution; but the followers of the former were ſtudiouſly bent to exalt the power of churchmen, and were wedded to thoſe forms and ceremonies which degrade the pure ſpirit of religion into an idolatrous worſhip of the objects of ſenſe; and convert that contemplation of the Creator, which elevates, refines and enlarges the human mind, into an implicit ſubjection to the intereſted opinions of men. In theſe reſpects, the innovations which the Arminians were daily making in the religious worſhip, was a proper object of parliamentary enquiry; and the diſcipline of the church was in its conſequences too important to be truſted to the direction of a prince who had, like Charles, evidently manifeſted an inclination to exalt the ſovereignty, not only beyond the ſpirit, but the forms of the conſtitution. In the firſt progreſs of the Reformation, thoſe monarchies which had adopted the ſpeculative doctrine of the reformed churches, retained a great deal of that pomp of worſhip eſſential to the Popiſh ſuperſtition, and agreeable to the pampered ſenſes of princes: neither had they relinquiſhed ſubordination, nor that eccleſiaſtical ſervitude, that reſignation of private judgment, which is ſo favorable to civil tyranny. This was the ſtate of church-government in England after the Reformation had taken place; and, as I have elſewhere obſerved, it ſtrengthened the tyranny of the crown, by flinging into the ſcale of regal power that abſolute and unlimited juriſdiction which had been wreſted from the biſhop of Rome.

Thoſe refugees who had taken ſhelter in the Low-countries from the terrors of Mary's perſecuting ſpirit, brought with them, on their return to England at the acceſſion of Elizabeth, more en-

Anno 1628. larged and independent notions than were agreeable to the views of this arbitrary princeſs; and ſhe made uſe of that confidence the Proteſtants placed in her, and their fears of Popery, to erect anew the court of High-commiſſion. In the thirty-fifth year of her reign, ſhe ſo entirely maſtered a puſillanimous parliament as to get an act paſſed, that all perſons above the age of ſixteen, who were abſent from church a month, or who by word or writing declared their ſentiments againſt the eſtabliſhed religion, ſhould be impriſoned till they made an open declaration of their conformity. This if they refuſed during three months, they were to abjure the realm; and if they either refuſed ſuch abjurations, or ſtaid in England beyond the time limited, they were to ſuffer as felons, without benefit of clergy. Thus ſhe involved the Romaniſts and the Diſſenters under the title of Recuſants.

The natural good ſenſe of the people of England, ſtrengthened by an increaſe of knowledge, could not long languiſh under this diabolical tyranny, without ſeeking a remedy from the powers of the conſtitution: and in James's firſt parliament, the lower houſe paſſed a bill againſt the eſtabliſhment of any eccleſiaſtical canons without conſent of Lords and Commons. The higher houſe, more open to James's cajolements, rejected the bill. Notwithſtanding this diſcouragement, the active vigilant ſpirit of the Commons exerted itſelf during the reign of this prince in ſuch a vigorous oppoſition to the ſpiritual juriſdiction of the crown, that this exertion, with the mild conduct of Abbot, and ſeveral other rational and amiable prelates, enabled men openly to aſſert the natural right of exerciſing their reaſon. The literary diſputes this occaſioned brought over great numbers to the cauſe of Freedom. Charles and his prieſthood endeavored

endeavored to reſtrain the ſubjects in that liberty they had exerciſed during the reign of James, and demanded a rigid conformity to ceremonies which had been long lain aſide, and which were at this time peculiarly obnoxious to the religious opinions of the greateſt part of the nation. Anno 1628.

It was to theſe pretences that the Commons in this ſeſſion of parliament oppoſed themſelves, with the joint force of reaſon and eloquence; and ſhewed that the eccleſiaſtical authority Charles claimed, the uſe of which he had already given a diſagreeable ſpecimen of, had been all granted by parliament; that it muſt be ſubordinate to the power which created it, and the abuſe of it liable to be corrected, and farther limited, by the after-reſolutions of that aſſembly*. The contempt which the abbettors of tyranny affected to ſhew for the houſe of Commons, had irritated this illuſtrious aſſembly, in ſeveral inſtances, into an undue ex-

* The Commons in this ſeſſion declared, that the articles of Lambeth were the preſent eſtabliſhed doctrine of the church of England. Theſe were ſettled by the archbiſhop of Canterbury, and other biſhops and divines, aſſembled at Lambeth in 1595, on the following occaſion. Calvin's opinions of predeſtination, grace, and perſeverance, were then received as the only true orthodox doctrine, and ſo maintained in the ſchools of Cambridge, till Peter Baro, a Frenchman taught in his public lectures a contrary perſuaſion. He was complained of by the heads of the univerſity unto Whitgift, the archbiſhop of Canterbury. He, aſſembling at Lambeth with Fletcher biſhop of London, and Vaughan elect of Bangor, agreed on nine articles to be ſent to Cambridge to compoſe the controverſies. Matthew Hutton, archbiſhop of York, afterwards aſſented to theſe articles; but the jealous tenacious Elizabeth was ſo offended with the prelates for not calling in her authority, that ſhe threatned to attaint them all of a premunire; and commanded Whitgift to call in and ſuppreſs the articles. They were produced by Dr. Reynolds in the conference at Hampton-Court, who ſtyled them the Nine Aſſertions Orthodoxall. *Sanderſon's Life of Charles*, p. 128, & *ſeq*. *Heylin's Life of Laud*, p. 204, & *ſeq*.

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Anno 1628. ertion of their authority. They cenſured Lewis, Witherington, and one Burgeſs, a prieſt, for triſling verbal offences *.

Sir John Eppeſly, a member of the Commons, deſired leave to anſwer a complaint againſt him in the higher houſe. Mr. Selden objected, that ſuch a conceſſion would affect the privilege of the Commons; that until the eighteenth of king James there had never been ſuch a precedent †. The chancellor of the duchy and ſecretary Cook, though two conſummate courtiers, ſeconded Mr. Selden's motion. Secretary Cook ſaid, "I am as careful to maintain a good correſpondency with the Lords as any man; but connivancy in this kind may overthrow the fundamental rights and privileges of the houſe: Let it therefore be ſeriouſly conſidered of; for this not only concerneth the right of this houſe, but the liberty of the whole commonwealth." The reſult of the debate was, that Sir John Eppeſly ſhould not have leave to anſwer.

Journ. Com. vol. I. p. 924. Parl. Hiſt. vol. VIII. p. 300.

The Commons took into conſideration a petition againſt lord Lambert, a member of their houſe; who being a colonel, had impoſed four-pence on every ſoldier towards his officers charges. The petitioner refuſing to pay, was firſt ſet in the ſtocks, and after, by the lord Lambert, committed to a

* Theſe kind of offences are ſeldom proved by undoubted teſtimony; and, if they are in themſelves criminal, are little formidable to juſt authority and upright government; ſince the multitude will be determined in favor of that which contributes to their own happineſs, and not biaſſed by the petulant opinions of a few prejudiced or ill-meaning citizens. There is not a more certain mark of an ill-deſigning or impotent adminiſtration, than attempts to reſtrain the liberty of ſpeaking or writing. Virtue in high places is ſure to gain the univerſal plaudit of mankind.

† The caſe which Mr. Selden refers to is the trial of Sir. Giles Mompeſſon, a member of the houſe of Commons.

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public priſon. Among the number of complaints which were brought before the Commons this ſeſſions, one was preferred againſt the lord-deputy of Ireland and others, for appropriating the eſtate of the petitioner to their own uſes *. Anno 1628. Journals of Commons, vol. I. p. 931.

* The following black tranſaction will ſerve as a ſpecimen of the kind of barbarity and injuſtice practiſed at this time in the kingdom of Ireland. Sir Richard Graham, an officer in the army, got poſſeſſion of part of the lands of Phelim Mac Pheagh Byrne, lord of the Byrne's territory. On commiſſioners having been appointed by James to examine into this affair, Graham put a ſtop to their proceedings by undertaking to prove that the crown was entitled to the lands; and a commiſſion was eaſily obtained, which empowered him, and others in his intereſt, to enquire into the ſaid pretended title. Sir William Parſons got the lord-deputy's warrant to put him in poſſeſſion of part of the lands, and ſued Bryan, the ſon of Phelim, in the Exchequer for thoſe of which he ſtill retained the poſſeſſion. Bryan maintaining his right, he and his brother, on the information of ſuborned witneſſes, were, on March 13, 1623, committed cloſe priſoners to Dublin-caſtle. One of theſe having refuſed to be an evidence, was cruelly tortured till he conſented to accuſe the two brothers. On the information of theſe witneſſes, two bills were preferred againſt them. Two ſeveral grand-juries, not finding the bills, were proſecuted in the Star-chamber, and fined. On king Charles's ſending an order to the lord-deputy to paſs the lands to Phelim and his ſon, a new proſecution was ſet on foot. The two brothers were committed cloſe priſoners to the Caſtle of Dublin, loaded with irons, without any diet from the crown, or leave for any friend to viſit and relieve them. The whole family was involved in one common accuſation of keeping company with, and relieving Marrogh Baccogh Kevenagh, who had been engaged in a rebellion. Eight men who had incurred the penalty of the law, were the witneſſes. A grand jury, conſiſting of men intereſted in the proſecution, was impannelled to try Phelim and his family. They found the bill; yet other witneſſes were neceſſary to the trial of the parties: to obtain theſe very illegal powers were exerted. People were tried and condemned by martial law, at a time when the courts of juſtice were ſitting: ſome of theſe were executed, and publickly declared that they came to that fate becauſe they could not accuſe Phelim and his ſons. The friends of the perſecuted gentlemen made application in their behalf to the king and council in England: the

CHAP. II.

The King's declaration.—Proclamation.—Proceedings againſt the members of parliament.—Death and character of Sir John Elliot.—Peace with France.—Peace with Spain.—Engliſh conſul inſulted.—Tonnage and poundage levied with rigor.—Affairs of Ireland.—Meaſures to advance the hierarchy.—Perſecution of miniſters.—Leighton's cruel uſage.—Innovations in religious ceremonies.—Acts of power.—Impoſitions and monopolies.—Affairs of Germany.—Proclamations.—Acts of power.

Anno 1628. THE violence uſed to the houſe of Commons, and the commitment of the members during the ſitting of parliament, were outrages reſulting from the determinations taken previous to its meeting, by the intereſted individuals who compoſed the cabinet and privy councils. Of this noxious tribe, Laud, Neile, and Weſton, the treaſurer, had moſt to dread from the enſuing ſeſſion. Laud in his Diary tells us, that the parliament broken up on the tenth of March labored his ruin. Weſton was parti-

Laud's Diary in the Breviate of his Life, by Prynne, p. 15.

the chief of theſe friends who thus interpoſed was Sir Francis Anneſly, afterwards Lord Mountnorris. And this is the ground of the imputation laid upon him by Clarendon, of being an enemy to the deputies of Ireland. A commiſſion was directed to the lord-primate of Ireland, the lord-chancellor, the arch-biſhop of Dublin, the lord-chief-juſtice, and Sir Arthur Savage, who taking the depoſitions of a great number of witneſſes, the truth of the above-mentioned circumſtances fully appeared. This reſtored the gentlemen to their liberty, but not to their eſtates; a conſiderable part whereof had been, during their impriſonment, paſſed to Sir William Parſons, by a patent dated the fourth of Auguſt, 4 Car. *Carte's Hiſt. of the Life of James, Duke of Ormond.* fol. 1736. p. 27. *& ſeq.*

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cularly marked by Sir John Elliot, as the object of an intended proſecution. It is ſaid that the King, as he was diſrobing after the diſſolution of the parliament, with much paſſion vowed, that he would never put on thoſe robes again. The court-paraſites every where declaimed againſt the reſpectable houſe of Commons, as an aſſembly of pragmatical, factious demagogues; and the noble ſentiments of Liberty, which had animated their proceedings, were not at this time ſo generally diffuſed as to affect the public with a conſternation equal to their imminent danger, in being expoſed to the unreſtrained power of a projecting wicked miniſtry. It is affirmed, that the courtiers at firſt were ſucceſsful in their endeavors to make the vulgar believe the Commons were the aggreſſors, after the King had paſſed the Petition of Right. Notwithſtanding this diſcouragement, together with the loſs of that active patriot, Sir Edward Coke, through diſability from age and infirmities, and Sir Thomas Wentworth, through the means of bribery, the oppoſition kept firm. They were compoſed of the greateſt men England ever produced; well founded in their principles; poſſeſſed of almoſt all the polite learning which was in the nation; intrepid in their conduct, from a conviction of the goodneſs of their cauſe; united in their counſels, from the ſincerity of their intentions; and not to be diverted by any difficulties from purſuing the laudable end they aimed at. Anno 1628. Guth. p. 896.

Some people of the lower ſort, warm in the intereſt of the party, a few days after the diſſolution of the parliament, threw two papers into the dean of St. Paul's yard; one againſt Laud, to this effect: "Laud, look to thyſelf; be aſſured thy life is fought, as thou art the fountain of all wicked- Ruſhworth, vol. I. p. 662.

Anno 1628. wickedneſs. Repent of thy monſtrous ſins before thou be taken out of the world; and aſſure thyſelf, neither God nor the world can endure ſo vile a counſellor or whiſperer to live." The other, againſt the treaſurer Weſton, was to the ſame purpoſe.

The King's declaration. Charles attempted to vindicate to the public his illegal violent conduct in a declaration, ſetting forth his reaſons for diſſolving the parliament. They were frivolous and weak, full of aſſertions of his upright intentions, without reconciling one of his meaſures to the principles of the conſtitution, or the Petition of Right; replete with abuſive accuſations of the patriot party in the lower houſe; whilſt the matter of the accuſation ſhews, that the grievances of the nation could no otherwiſe be redreſſed than by the ſpirited exertion which it condemns. He acknowledges, that tonnage and poundage was ever enjoyed by the authority of parliament, and therefore it was agreeable to his kingly honor to take it without the authority of parliament. The Commons were charged with not obeying the adjournment immediately, and the King's power in that point ſuppoſed to be inconteſtable *. There is no mention of the immediate cauſe of their non-compliance; viz. a manifeſt breach of the freedom of parliament, in the ſpeaker's refuſing, by the King's expreſs command, to put the queſtion. The declaration finiſhes with an aſſurance of good government; but that to depend on the King, and not in the ſtrength, vigor, and goodneſs of the

* The power of adjourning, though it had not been formerly diſputed, was a point of privilege which the Commons had by no means given up to the crown: their right had been aſſerted by ſeveral of the popular members, and never contradicted by a reſolution of the houſe.

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laws, to oppoſe a bad one. If Charles's moſt inveterate enemy had penned an acrimonious libel on his adminiſtration, it could not more fully have ſerved the purpoſe of ſowing the ſeeds of diſcontent, jealouſy, and reſentment, than this impolitic endeavor to reconcile the minds of the people to his tyrannical pretenſions. Anno 1628.

The Commons not having been called up on the diſſolution of the parliament, a proclamation was iſſued to give notice to all the lords ſpiritual and temporal, knights, citizens, burgeſſes, and others concerned in the parliament, that they might depart about their needful affairs, without attending any longer in London. The declaration ſetting forth the reaſons for diſſolving the parliament had an effect ſo different from its intended purpoſe, that the people murmured highly for another; and ſaid, if there was not one preſently called all things would be unſettled, and out of order. On this a proclamation was iſſued for ſuppreſſing ſuch diſcourſes; that it was preſumption in any to preſcribe any time to his majeſty for parliaments, the calling, continuing, and diſſolving them, being always in the King's own power *; that his majeſty will be more inclinable to meet his parliament again, when his people ſhall ſee more clearly into his intentions and actions; when ſuch as have bred this interruption ſhall receive their condign puniſhment, and thoſe who are mis-led by them, and ſuch ill reports as are raiſed upon this occaſion, ſhall come to a better underſtanding of his majeſty and themſelves †. Ruſhworth, vol. I. p. 660. Ruſhworth, vol. II. p. 3. Proclamation.

* Never was there a more barefaced act of tyranny than this prohibition, ſupported by an aſſertion ſo notoriouſly falſe; the people, by two ſtatutes then in force, having a right to demand an annual parliament.

† The courtiers were ſo emboldened by the King's openly avowing

Anno 1628. Charles was now determined to govern entirely by his council, and to raiſe money by his prerogative. To juſtify his proceedings againſt the impriſoned and abſconded members, the judges
Anno 1629. were aſſembled on the twenty-fifth of April, and certain reſolutions * extorted from them, calcu-

avowing an intention to call no parliaments till the people were rendered ſubmiſſive to his will, that one Atkinſon having ſued a ſervant of the King, the earl of Montgomery (the lord-chamberlain), committed him for having done it without his leave. Atkinſon was delivered on his Habeas Corpus; and that very day Montgomery again committed him, in contempt of the court. Hyde denied to grant a warrant for another Habeas Corpus, but it was obtained from the reſt of the judges. Before its return, Atkinſon was diſcharged from priſon. *Whitlock*, p. 13.

* The queſtions put by the attorney-general, and dictated by Laud, with the reſolutions of the judges.

To the queſtion, "Whether if any ſubject hath received probable information of any treaſon, or treacherous attempt againſt the King and ſtate, that ſubject ought not to make known to the King, or his majeſty's commiſſioners, when thereunto he ſhall be required, what information he ſhall receive, and the grounds thereof, to the end that the King, being truly informed, may prevent the danger? And if the ſaid ſubject in ſuch caſe ſhall refuſe to be examined, or to anſwer the queſtions which ſhall be farther demanded of him, for farther enquiry and diſcovery of the truth, whether it be not a high contempt in him, puniſhable in the Star chamber, as an offence againſt the general juſtice of the kingdom?"

The judges anſwered, that it was an offence puniſhable as aforeſaid; ſo that it did not concern himſelf, but another, nor draw him to danger of treaſon or contempt by his anſwer.

"Whether it be a good anſwer or excuſe, being thus interrogated, to ſay, that he was a parliament-man when he received this information, and that he ſpake thereof in the parliament-houſe; and therefore, the parliament being now ended, he refuſed to anſwer to any ſuch queſtions but in the parliament-houſe?"

The judges gave a private anſwer to Mr. Attorney, that ſuch an excuſe was in nature of a plea, and not an error of judgment; therefore not puniſhable till over-ruled.

"Whether

lated not only to juſtify the proceedings of the miniſtry, but to awe any future parliament from diſputing the will of the court. Judge Whitlock, notwithſtanding he gave his aſſent with the reſt of his brethren, ſaid, if Laud went on to get previous determinations to juſtify all his arbitrary meaſures, he would kindle a flame in the nation. Chambers, for the words he had ſpoken at the council-board, that the merchants in England were more ſcrewed up than in Turkey, was fined in the Star-chamber two thouſand pounds, and to acknowledge his offences at the council-board, the Star-chamber bar, and the Exchange. Anno 1629. Whitlock, p. 13. Ruſhworth, vol. I. p. 670, & ſeq.

" Whether a parliament-man, committing an offence againſt the King or council, not in a parliament-way, might, after the parliament ended, be puniſhed?"

The judges anſwered, he might, if he be not puniſhed for it in parliament. They agreed, that he could not regularly be compelled, out of parliament, to anſwer things done in parliament in a parliamentary courſe; but it was otherwiſe where things were done exorbitantly, for thoſe were not the acts of a court.

" Whether if one parliament-man alone ſhould reſolve, or two or three ſhall covertly conſpire, to raiſe falſe ſlanders and rumors againſt the lords of the council and judges, not with intent to queſtion them in a legal courſe, or in a parliamentary way, but to blaſt them, and to bring them to hatred of the people, and the government into contempt, he be puniſhable in the Star-chamber after the parliament be ended?"

The judges anſwered, that the ſame was puniſhable out of parliament, as an offence exorbitant committed in parliament, beyond the office, and beſides the duty, of a parliament-man.

To the following queſtions put by Mr. Attorney, " Whether if a parliament-man, by way of digreſſion, and not upon any occaſion ariſing concerning the ſame in parliament, ſhall ſay, the lords of the council and the judges had agreed to trample upon the liberty of the ſubject, and the privilege of parliament, he were puniſhable or not?" the judges deſired to be ſpared to make any anſwer, becauſe it concerned themſelves in particular. *Ruſhworth*, vol. I. p. 662, *& ſeq.*

Anno 1629. Notwithſtanding his plea that theſe words were only ſpoken in the preſence of the privy-council, and not abroad to ſtir up diſcord among the people, and with no other view than to introduce his juſt complaints againſt the inferior officers, the fine was thought very moderate by this court: ſome of the members voted it to be three thouſand pounds; of this number was biſhop Laud. When the draught of the ſubmiſſion was read to Chambers, he thus ſubſcribed it: "All the aboveſaid contents and ſubmiſſions, I Richard Chambers, do utterly abhor and deteſt, as moſt unjuſt and falſe; and never till death will acknowledge any part thereof *." Chambers put in a plea in the court of Exchequer againſt paying the fine; that the ſaid fine was impoſed by the King and the council, and not by a legal judgment of his peers, nor by the laws of the land, nor according to the manner of his offence, nor ſaving his merchandize, &c. To this plea he annexed a petition to the lord-chief-baron, and the other barons, humbly deſiring the filing the plea, with other reaſons, in the manner of a motion at the bar, becauſe counſel would not move, plead, nor ſet hand to it. On the repreſentation of Mr. Attorney, that this plea was frivolous, inſufficient, and derogatory to the honor and juriſdiction of the Star-chamber, the court over-ruled it, and the petitioner was impriſoned ſix years for not ſubmitting to the ſentence of the court.

* The ſubſtance of the ſubmiſſion was as follows: That Richard Chambers having been convented before the lords and others of his majeſty's moſt honorable privy-council-board, did then and there, in inſolent, contemptuous, and ſeditious manner, falſely and maliciouſly ſay and affirm, &c. *Ruſhworth*, vol. I. p. 672.

On

On Easter-Term Mr. Strode and Mr. Long, two of the imprisoned members, brought their Habeas Corpus to be admitted to bail. The judges, intimidated by a warrant the King had sent under his own hand for their detention, remanded them *; but before the next term they

Anno 1629. Proceedings against the members of parliament.

Whitlock, p. 13.

* Mr. Ask of the Inner-Temple was of counsel for Mr. Strode, and Mr. Mason of Lincoln's-Inn for Mr. Long. Mr. Long argued, that the words in the warrant, "notable contempts against our government, and stiring up sedition against us," were too indefinite and general for the prisoners to be remanded on such a return; that there were in the law many contempts of different natures, which had different degrees of punishment: every contempt made to the King was notable against our government; and that it appeared not to the court of what nature the contempts mentioned in the King's warrants were; that besides, the King cannot imprison any man, because no action of false imprisonment lies against the King; that there were no such words in the law-books as Sedition, but taken adjectively, as seditious books, seditious news, &c.; that in the statute of the first and second of Philip and Mary, the penalty imposed on such sedition is but a fine. Here Mr. Ask quoted law-cases, to shew that a general accusation of a mutinous and seditious man was not adjudged actionable. Mr. Mason said, he would not argue the first warrant committed by the King and privy-council, because the insufficiency of such a return was claimed as an ancient right pertaining to the subject in the Petition of Right, whereto the King had given his consent. For the second warrant, for stirring up sedition against us and our government: Sedition is not any determined offence within our law. Our law gives definitions and descriptions of other offences; to wit, of treason, murder, felony, &c. but there is no crime in our law called Sedition. Before the statute of Ed. III. cap. 2. it was not clear enough what was treason, what not; by which statute it is declared what shall be said treason; and that the judge shall not declare any thing to be treason which is not contained within the said statute; and that statute speaks not of sedition; nor the statute of the first of Hen. IV. cap. 10. which makes some things treason which are not contained within the said statute of 25 Ed. III. The statute of 1 Ed. VI. cap. 12. takes away all intervening statutes which declared new treasons; and the said act declares other things to be treason, but

Anno 1629. Rushworth, vol. I. p. 665, & seq.

ſent a letter to the King, in which they repreſented, that by their oaths they were to bail

mentions not Sedition. Sedition is the quality of an offence, and is oftentimes taken adverbially or adjectively. Here Mr. Maſon quoted law-caſes to prove, that ſedition was never taken as a ſubſtantive; and alledged, that the preſent caſe was clearly within the Petition of Right, in which Magna Charter and the ſtatutes of the 25 and 28 Ed. III. were recited. The grievance there was, that divers have been impriſoned without any cauſe ſhewn to which they might make anſwer according to law; and upon this return nothing appeared to be objected to which he might make anſwer. It appears not what that act which is called Sedition is. This is the grief intended to be remedied by that ſtatute. To this he cannot anſwer according to law: It appears not whether this were a ſeditious act, treſpaſs, or ſlander, or what it was at all. Serjeant Barclay argued for the King, that the return was ſufficient in law to detain them in priſon; that the caſe was not ſo general as it had been made, but particular upon this particular return. To the objection, that the commitment was by the lords of the privy-council, and the ſignification of the cauſe by the King—That the lords of the council do it by the command of the King, and they only purſued his command. To the objection, that Markham ſaid to king Edward IV. that he cannot arreſt a man for ſuſpicion of treaſon or felony, becauſe if he do wrong the party cannot have his action——That the book there is to be underſtood of a wrongful arreſt, for there is ſpoken of an action of falſe impriſonment; and a wrongful arreſt cannot be made by the King. To the objection, that the return was general and uncertain—That the counſel of the other ſide had divided the words of the return. Notable was a word obſervable in the law; and that though ſedition in itſelf might be a general offence, yet ſedition againſt us and our government made it particular; that there were many writs more uncertain then this return, and yet good; that the writ concerning the taking an apoſtate was general, yet there were ſeveral ſorts of apoſtacies; that on the writ concerning the remove of lepers the words were general, yet there were two kinds of lepers. To the objection, that by the ſtatute of 25 Ed. III. the parliament ought only to determine what was treaſon, what not—That upon the ſaid ſtatute the poſitive law had always made explication and expoſition. It was fit to reſtrain the priſoners of their liberty, that the commonwealth might not be damnified. It was lawful to pull down a houſe to pre-

vent

the priſoners; but thought fit, before they did it, or publiſhed their opinions therein, to inform his majeſty thereof, and humbly to adviſe him, as had been done by his noble progenitors in the like caſe, to ſend a direction to his juſtices of the bench to bail the priſoners. Charles told the judges, that he was diſſatisfied with the contents of their letter, and ordered them to take no ſtep in bailing the priſoners till they had adviſed with the judges of the other benches. During this delay, the priſoners were removed into other priſons; the King ſending a letter to the judges to acquaint them, that the removal was occaſioned by their inſolent carriage at the bar of the Star-chamber, and at the bar of the King's Bench *. Anno 1629.

vent the ſpreading miſchief of fire. It was lawful to reſtrain a furious man. *Ruſhworth*, vol. I. *Appendix*, p. 18. *& ſeq.*

* The firſt day of Trinity-Term, Mr. Selden having been brought on an Habeas Corpus to the bar of the King's Bench, Mr. Littleton argued, that the cauſe of the return being the ſame which had been brought with the other priſoners, it was inſufficient, and againſt the Petition of Right; that in the warrant of the King, as certified by the return, there was not a ſufficient cauſe for detaining the priſoner. For the firſt part of it, "For notable contempts by him committed againſt ourſelf and our government." For contempts, all contempts are againſt the King mediately or immediately, and againſt his government. Notable is all one with notorious and manifeſt, as appears by the ſtatute of Weſtminſter 1, cap. 15, and 26 Ed. III. 71. Notable is but an emphatical expreſſion of the nature of the thing, and alters it not. "Againſt us:" All riots, routs, batteries, and treſpaſſes, are againſt us, and againſt our crown and dignity. Contempt againſt our court of juſtice is a contempt againſt us. But if the return were, that he was committed for a contempt made in Chancery, the party ſhall be bailed, as it was reſolved in this court in Michael Apſley's caſe, and in Ruſwell's caſe, 13 Jac. Mr. Littleton quoted a good many ſtatutes and law-caſes to prove, that ſedition was not an offence of itſelf, but the aggravation of an offence; and no indictment was ever ſeen

Anno 1629. It was not till Michaelmas-Term following, that Charles was brought to conſent that the pri-

of ſedition ſingly by itſelf on the entire return. He ſaid, the King joined ſedition with notable contempts, mentioned in the firſt part of the return, ſo that it made it but a contempt. Here Mr. Littleton quoted the caſe of Peter Ruſſel, in the 9 Ed. III. who was bailed on a return of having committed divers ſeditions againſt the lord the king. "It has been affirmed, ſaid Mr. Littleton, that there can be no conviction as this caſe is, therefore there ought to be coercive power to reſtrain the priſoners. This is ſtrange news to me, that there ſhall be an offence for which a man cannot be convict. If there be no conviction, it hence follows there can be no offence; and if there be no offence, there ought by conſequence to be no puniſhment. The caſe of the 14 Henry VII. 8. hath been objected, that a juſtice of peace may commit rioters without bail. I confeſs it, for this is by force of a ſtatute which ordains it. It hath been objected, that if a houſe be on fire, it is lawful to pull down the neighbor's houſe for the prevention of farther miſchief: and the caſes of 22 Aſſ. and 22 Ed. IV. that every man may juſtify the coercion of a madman. I anſwer, that thoſe caſes are true, for of neceſſity, and no other evaſion: but here bail is proffered, which is body for body. Fire is ſwift, and cannot be puniſhed, and no caution can be obtained thereof. But obſerve the true inference and conſequence of this argument: If my houſe be on fire, my neighbor's houſe muſt be pulled down: Mr. Selden is ſeditious; *ergo*, Mr. Herbert, his neighbor, muſt be impriſoned. It hath been objected, that the caſe is out of the Petition of Right, becauſe in this return there is a cauſe ſhewn; but the grievance whereupon the Petition of Right was framed was where no cauſe was returned. It is true that the grievance goes no farther but where no cauſe was returned, for that was the grievance at that time; but the words of the Petition of Right are farther, without being charged with any thing to which they might make anſwer by the law, which implies, that ſuch cauſe ought to be contained in the return, which being put into an indictment, the party may have his anſwer thereto. It was objected, that the return ſhall not be conſtrued and expounded by fractions. I anſwer that we need not make ſuch an expoſition, for the joint conſtruction thereof makes more for us than the ſeveral, as is ſhewn before. It has been objected, that a general return is ſufficient, and that it need not have terms of art in it, as an indictment ought to have. For an-

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ſoners ſhould be bailed, provided they gave ſe- Anno 1629.
curity for their good behavior. This was a point

ſwer, I confeſs it; but I affirm, as above, that a return ought to be ſo particular that the nature of the offence appear out of it: and it is not to be compared to general writs, *Apoſtata capiendo*, *Idiota examinando*, *Lepros amovendo*, and the like; for thoſe writs are good enough, becauſe they contain the very matter. It hath been objected, out of 30 Aſſ. p. 19. that the King would have one drawn or hanged for bringing into England the bulls of the Pope; but the book anſwers itſelf, for he was not drawn or hanged. The ſtatute of Weſtminſter was objected; but as often as that ſtatute is objected, I will always cry out, The Petition of Right, the Petition of Right, as the king of France cried out nothing but France, France, when all the ſeveral dominions of the king of Spain were objected to him. I will remember one caſe, which perhaps may be objected, and ſo conclude: 11 Rich. II. Parliament-Roll 14. in the printed ſtatute, cap. 3. and 5. where it appears, that divers queſtions were propounded by the King to Treſilian and Bealknap, the two chief-juſtices, and to the other juſtices; one of which queſtions was, How they are to be puniſhed who reſiſt the King in exerciſing his royal power, &c.? The anſwer of the judges was, *una voce*, that they are to be puniſhed as traitors; and 2 Rich. II. cap. 21. this opinion was confirmed; but afterward, in the 1 Hen. IV. cap. 3. and 4. and 1 Hen. IV. in the Parl. Rolls, numb. 66. and 67. the judges being queſtioned for their opinion in parliament, they anſwered, that they were threatened and enforced to give it, and that they were, in truth, of the contrary opinion. Bealknap ſaid, that he proteſted aforehand to the earl of Kent, that his opinion was always to the contrary. The parliament was not content with theſe excuſes, and they were all adjudged traitors."

Sir Miles Hobart, Benjamin Valentine, Denzil Holles, Eſqrs. were at the bar upon an Habeas Corpus directed to the ſeveral priſons, and their council was ready to have argued the caſe; but the ſame return being made for them as was made for Mr. Selden, they all agreed to rely upon the arguments which had been urged by Mr. Littleton.

Sir Robert Heath, the attorney-general, argued, that the return was good, and that the priſoners ought not to be bailed; that the firſt general warrant by command of the lord the king was in former times held a very good return, when due reſpect and reverence was given to government—but,

Anno 1629. of law in favor of the crown, which the judicious Mr. Selden, with a ſpirit truly magnanimous

tempora mutantur; that this return was not weakened by any latter opinion: for notwithſtanding that, the firſt commitment of a man might be general; for ſhould the true cauſe be revealed to the gaoler, the complices of the fact might eſcape: but when the cauſe was returned in court, more certainty was requiſite; for then, as it had been objected, ſomething ought to be expreſſed, to which the party might make anſwer, and to this purpoſe the Petition of Right had been much inſiſted on; but the law was not altered by it, but remained as it did before. Here Mr. Attorney ridiculouſly and treaſonably aſſerted, that the King's declaration after the paſſing the Petition of Right, that he had granted no new, but only confirmed the ancient liberties of the ſubject, rendered it not effective in this caſe; and he ſhould conſider how the law was taken before the Petition. "It ſeems, ſaid he, that there is ſuch a crime contained in this return, which is a good cauſe for detaining the priſoner. It is true, that it was confidently urged in parliament in 3 Car. that general returns which were committed by the lord the King were not good, &c. and that thoſe arguments remain as monuments on record in the upper houſe of parliament; but I will not admit them for law; but I will remember what was the opinion in former times." Here Mr. Attorney quoted Newton, and ſaid, that the contrary opinion was grounded on Magna Charta, which was a general law, and literally had no ſenſe to that purpoſe; that it was contrary to the uſual practice in criminal caſes, in which the impriſonment was always lawful until the trial, although made by a juſtice of peace or conſtable. Mr. Attorney quoted law-caſes, and ſaid, that there were innumerable precedents to this purpoſe; that it was the opinion of that court in 3 Car. that the law was not altered ſince, and he hoped the opinion of the judges was not altered. Mr. Attorney further argued, that ſedition was a word well known in the law, and of dangerous conſequence; that out of the ſtatutes enacted againſt treaſon, it appeared there was a narrow difference between it and treaſon, if there was any at all. To the objection, that the gentlemen had been a long time impriſoned, and no proceeding againſt them—"It is well known, ſaid Mr. Attorney, there have been ſome proceedings againſt them, and they declined them; and alſo, more than three months is requiſite for the preparations of ſuch proceedings; and the King intends to proceed againſt them in convenient time. If any injury be done

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refuſed to aſſent to, ſince giving bail for good behavior was a puniſhment, and implied an of- Anno 1629.

to the priſoners, they themſelves are the cauſe of it, for not ſubmitting themſelves to the King. And for the inſtance which Mr. Littleton uſed, of the judges in the 2 Rich. II. although they ſuffered for their opinions given to the King, I deſire that the time when their opinion was delivered may be conſidered, to wit, in the time of Rich. II. and the time when they ſuffered, to wit, in the time of Hen. IV. And it was the ſaying of a noble gentleman, the lord Egerton, that Bealknap ſuffered rather by the potency of his enemies, than the greatneſs of his offence. And yet it is to be confeſſed, they might have given better counſel: But there was no time to diſpute the juſtneſs of their counſel, when the ſword was in the hands of the conqueror. It hath been relied upon the reſolution of all the juſtices in England in 34 Eliz. which reſolution is now regiſtered in the upper houſe of parliament, at the requeſt of the Commons, in *tertio Caroli regis*; but I leave it to you, as that reſolution ſhall ſway your judgment. The ſaid reſolution is, that the cauſe ought to be certified in the generality or ſpeciality; and here the general cauſe is certified at leaſt, if the ſpecial be not ſo. Upon the whole matter, the bailment of theſe priſoners is left to your diſcretion; and I have ſhewn to you the diſcretion of your predeceſſors: and if any danger appear to you in their bailment, I am confident that ye will not bail them if any danger may enſue. But firſt you are to conſult with the King; and he will ſhew you where the danger reſts. Therefore, upon the whole matter, I pray that they may be remanded.

When the judges were ready to have delivered their opinions on the grand Habeas Corpus for Mr. Selden and others, the priſoners were not brought to the bar, according to the rule of the court; therefore proclamation was made for the keepers of the ſeveral priſons to bring in their priſoners. None of them appeared but the marſhal of the King's Bench, who ſaid that Mr. Strode, who has in his cuſtody, was removed yeſterday, and put in the Tower of London, by the King's own warrant. And ſo it was done with the other priſoners: each was removed out of his priſon in which he was before. Notwithſtanding this, it was prayed by the counſel of the priſoners, that the court would deliver their opinion for the matter in law. But the court refuſed to do that, becauſe it was to no purpoſe; for the priſoners being abſent, they could not be bailed, delivered, or remanded.

The laſt day of the term, a letter came to the court from the King

Anno 1629. fence, which yet remained to be tried and proved*. The reſt of the priſoners, animated by Mr. Selden's example, determined to defend this conſtitutional point, at the expence of their perſonal liberties. On their refuſal to find bail for their good behavior, they were remanded to the Tower, and an information lodged againſt them in the King's Bench for ſedition and contempt; and againſt Mr. Long, for that he, being choſen ſheriff of the county of Wilts, and by his oath to keep within his county, unleſs he had the King's licence to the contrary, yet he did come to parliament, and ſerve as a member there, and in the time of parliament reſided out of his county †. All the parties under proſecution ex-

King himſelf, to inform the court concerning the reaſons wherefore the priſoners were not ſuffered to come at the day appointed, for the reſolutions of the judges; yet that Selden and Valentine ſhould appear the next day. About three hours after, the judges received other letters, intimating that neither Selden nor Valentine ſhould appear. *Ruſhworth*, vol. I. *Appendix*, p. 28, *& ſeq. Ruſhworth*, vol. I. p. 680, *& ſeq.*

* The judges, to prevail with the priſoners to aſſent to this illegal demand, aſſured them, that one bail ſhould ſuffice, and all ſhould be written on one piece of parchment. They were every one ſo reſolute in their denial, that when Aſhley, the king's ſerjeant, offered his own bail for Mr. Holles, who had married his daughter and heireſs, the court was obliged to reject it, becauſe Mr. Holles refuſed to be bound in the obligation. *Baker's Chronicle*, p. 445. *Ruſhworth*, vol. I. p. 683.

† Mr. Long had been proſecuted for this offence in the Star-chamber. His plea there was, that the oath of a ſheriff to reſide in his county does not exempt him from obeying the King's command out of the county, when the king requires it; and that by the King's command in his higheſt capacity, he being choſen a member of parliament, was obliged, as well by the King's command, as by a truſt repoſed in him by his county, to ſerve as a member of parliament.

Mr. Long's counſel might have added, that the queſtion had, in Sir Edward Coke's caſe, been determined in favor of the defendent; ſince on that patriot's having been made high-

ſheriff

cepted to the jurisdiction of the court. This exception in the case of Long was treated as a derogation of the jurisdiction of the court: He was sentenced to be committed to the Tower, there to remain during the King's pleasure, to pay a fine of two thousand marks to the King's use, and to make humble submission and acknowledgment of his offence, both in the court of Star-chamber and to the King, before his enlargement. Anno 1629.

To the other exceptions against the jurisdiction of the court, notwithstanding the counsel for the prisoners had proved, that there never was a precedent of such offences having been punished in that court, where any plea was put in, the judges agreed, that the court had jurisdiction, though the offences were committed in parliament; and that the members imprisoned ought to answer *. They Rushworth, vol. I. Appendix, p. 51. Rushworth, vol. I. p. 686. & seq.

sheriff of Buckinghamshire to impede his serving his country in parliament, he had nevertheless been elected a member, and his election had been resolved to be good by the House of Commons.

It is said, that when Mr. Long's counsel pleaded antient records to exempt members of parliament from the jurisdiction of that court in matters concerning the parliament, bishop Harsnet replied, "Don't trouble us with moth-eaten precedents; we sit here not to be guided by precedents, but to make them."

* The four judges were, the lord-chief-justice Hyde, Whitlock, Crooke, and Jones. Hyde gave an opinion, that offences committed in parliament might be punished out of parliament, and no court more proper for that purpose than the court of King's Bench. Jones argued, that the privilege of parliament did not hold in three cases: treason, felony, and in suit for the peace; and that this last was the case in question. To these arguments Whitlock added the following ridiculous distinction: That the present question was between private members of the House of Commons and the King, and not between the King and the parliament; that that which is done in parliament by the consent of all the house, shall

not

Anno 1629. ſtill refuſing to plead before the court, the following judgment was given againſt them upon a *Nihil Dicit*:

"That every of the defendants ſhall be impriſoned during the King's pleaſure. Sir John Elliot to be impriſoned in the Tower of London, and the other defendants in other priſons.

"That none of them ſhall be delivered out of priſon, until he give ſecurity in this court for his good behavior, and have made ſubmiſſion and acknowledgment of his offence.

"Sir John Elliot, inaſmuch as we think him the greateſt offender and ring-leader, ſhall pay to the King a fine of two thouſand pounds; Mr. Hollis a fine of two thouſand marks; and Mr. Valentine, becauſe he is of leſs ability than the reſt, ſhall pay a fine of five hundred pounds *."

not be puniſhed elſewhere; but if any private members put off the perſons of judges, and cloath themſelves in the perſons of malefactors, they are ſeditious. Charles ſaid of Whitlock, that he was a ſtout, wiſe, and a learned man, and one who knew what belonged to uphold magiſtrates and magiſtracy.

Juſtice Crooke, as abſurd as Whitlock, ſaid, that all offences againſt the crown were to be puniſhed in the court of King's Bench. Indeed what was done in a parliamentary way could not be puniſhed there; but what was done falſely and unlawfully could not be a parliamentary courſe, and therefore ſuch offences were puniſhable out of parliament. *Whitlock*, p. 11.

Whitlock informs us, that about this time ſome conſtables, and other men of low condition, were committed by the council; and bringing their Habeas Corpus, were removed from purſuivant to purſuivant, and could have no benefit of the law. The proceedings of the High-commiſſion court were carried ſo high, that one Huntly, a parſon in Kent, having diſobeyed an order to preach a viſitation-ſermon, was committed to priſon by the High-commiſſion court: the return on his Habeas Corpus being default in his canonical obedience, he was firſt bailed, and afterwards delivered upon this reaſon, becauſe breach of canonical obedience is an offence puniſhable by the ordinary, by eccleſiaſtical cenſures, and not by the commiſſioners eccleſiaſtical, by fine and impriſonment.

Huntly

The impriſonment of theſe illuſtrious ſufferers was long, their treatment under confinement rigorous and cruel: they were denied the uſe of pen and ink, and, even in their ſickneſſes, all communication with their wives and families. Under theſe oppreſſions died Sir John Elliot. It is the peculiar duty of hiſtory to do juſtice to injured and aſperſed virtue. The merits of Sir John Elliot demand a particular attention, as the firſt martyr to the pre-eminent cauſe of Liberty. It is, perhaps, the early exit of this undaunted patriot which has left his memory rather a prey to calumny, than diſtinguiſhed by thoſe ſtrong lines of virtue which marked the real man. Notwithſtanding the pains monarchical writers have taken to

Anno 1629.

Death of Sir John Elliot.

His character.

Huntly brought his action againſt the keeper, and ſome of the commiſſioners by name. The attorney-general moved, that the action might lay againſt the gaoler only, and not againſt any of the perſons of the High-commiſſion. The court ordered, that two of the commiſſioners ſhould anſwer. Laud inſinuated to the King, that it would much prejudice the authority of his High-commiſſion court, if the judges of it were expoſed to perſonal actions. Charles ſent his advocate, Dr. Ryves, to the lord-chief-juſtice, requiring him to proceed no farther in the cauſe till he had ſpoken with him. On the receipt of the mandate, the judges came to a reſolution, that a meſſage which commanded an indefinite ſtay of a cauſe between party and party, and might ſtop the courſe of juſtice as long as the King would, did not ſtand with their oaths. They farther declared the doctor to be no fit meſſenger, all meſſages from the King to them, in cauſes relating to the adminiſtration of juſtice, being uſually by the lord-keeper, or the attorney-general. On this, Charles ſent for the judges, and laid an expreſs command upon them, that they ſhould not put the commiſſioners to anſwer. The general odium excited by the power which theſe eccleſiaſtical officers had aſſumed, changed the ſubmiſſive diſpoſitions of the judges: they ſtoutly replied to the King, "That they could not, without breach of their oaths, perform his commands." It was determined after at the council-table, that the judges had done their duty, and that the commiſſioners ought to anſwer. *Kennet's Complete Hiſtory of England*, vol. III. p. 58. *Whitlock*, p. 12, 13.

wound

Anno 1629. wound his private character, they have never produced a ſingle anecdote againſt him, grounded on any good hiſtorical proof. In his public life, he eminently appeared an independent agent for the people, a faithful truſtee of that ſacred charge committed to a repreſentative by his conſtituents, an intrepid aſſertor of the privileges of parliament, and a zealous defender of the Liberty of the ſubject; determined in his oppoſition to the unconſtitutional pretenſions of the crown, and the arrogant and dangerous encroachments of favorites and miniſters. By this ſteady manly conduct, he gained ſo much of the eſteem and confidence of the public, that from the year 1618 to the year 1628 he was always elected a knight of his county, or a burgeſs for ſome borough therein, to ſerve in all parliaments. The enemies to his virtues would inſinuate, that his ſpirited exertions in the cauſe of Liberty had no other ſource than private pique to Buckingham; but his animated conduct in the parliament ſucceeding the deceaſe of that favorite, evidently confutes that aſſertion. He poſſeſſed a bold, ſpirited, and nervous elocution, a lively imagination, and a ready wit*. He

Wood Athenæ Oxonienſes, fol. ed. 1721, vol. I. p. 543.

Cornwall.

* There is in the Britiſh Muſeum a very valuable MS. entitled, "The Monarchy of Man, a Treatiſe philoſophical and moral, compoſed by Sir John Elliot," whilſt a priſoner in the Tower. The ſame ſpirit of Liberty, the ſame juſt notions of government, animated the writer as animated the orator. After aſſerting, from Theodoſius and other authorities, that kings are ſubject to laws, he obſerves, "It is their majeſty, their honor, their exaltation, ſo to be: The reaſon is, that the law is the ground of all authority; all authority and rule dependant on the law." The following paſſage is a lively picture of the miſerable ſervitude of the times in which Sir John Elliot lived, and under the tyranny of which he died, with the ſmall proſpect there then was that this country would ever attain to that glory and freedom which it has ſince enjoyed. "The queſtion, whether laws have an influence on princes,

was a more forward leader of oppoſition than any of his cotemporaries, and the moſt daring champion for the public cauſe *. Anno 1629.

princes, is a queſtion involved in difficulties, as lying within that myſtery, the prerogative of kings, which is a point ſo tender it will hardly bear the mention: we may not handle it with roughneſs, leſt it reflect new beams of terror on ourſelves. If we turn our diſquiſition, and thus ſtate it, What power the King has upon the laws? there is ſuch a confluence of flattery conducing to our prejudice; ſuch labor to make a monarchy unlimited, an abſoluteneſs of government without rule; ſo much affection, or corruption rather, ſpecified; ſuch diſtortion and perverſion of authorities to that end; learning made proſtitute to fallacy; religion turned to policy; Heaven brought down to earth; light transformed to darkneſs; as to attempt againſt it is now to row againſt the tide, againſt the ſtream and current of theſe times to ſeek a paſſage unto truth. —— To confute thoſe who inculcate the doctrine of tyranny unto princes were not a taſk of hardneſs, if the danger did not exceed the trouble; but the infection of theſe times is incompatible with ſuch labors, when ſcarce the leaſt diſeaſe is curable." The treatiſe concludes with a panegyric on the independence of the mind: "The affections being compoſed, and the actions ſo directed, the perfection of our government, that *ſummum bonum* in philoſophy, the *bonum publicum* in our policy, the true end and object of the Monarchy of Man." *Br. Muſeum MSS.* numb. 2228. This treatiſe contains 240 folio pages, fairly written, with this motto: *Deus nobis hæc otia fecit.*

* Wood, in his Hiſtory of Oxford-writers, tells us, that Sir John Elliot, after having ſtudied three years at the univerſity of Oxford, finiſhed his education at the inns of court, and was there made a barriſter. The ſtudy of the common law of England was, in theſe days, conſidered as a very neceſſary part of education for the men of fortune who aſpired to the honor of ſerving their country in the important function of members of parliament. Modern education is on a very different plan: the tour of Europe ſucceeds the univerſity, and completes the fine gentleman; whilſt his attention to faſhions, and to all the trifling parts of foreign manners, take place of the more drudging ſcience of the law, the ſtudy of politics, and the conſtitution of his country. To this change, perhaps, may be juſtly aſcribed part of thoſe misfortunes which are intirely imputed to the venality of the preſent times.

The

Anno 1629. The forementioned ſeverities practiſed on theſe gentlemen of reſolved and ſtubborn virtues, were not the only endeavors uſed to break and diſunite the party. Thoſe eminent parliament-men who were of a pliant temper were all preferred: Sir Dudley Diggs was made maſter of the rolls, Noy was made the King's attorney *, and Littleton his ſolicitor †.

Charles, wholly engaged in quelling the obſtinacy of his Engliſh ſubjects, and ſettling on a firm baſis his plan of arbitrary power, liſtened with pleaſure to pacific propoſals from the French court. Richlieu knew that both the Engliſh king and miniſtry were eager for peace; and though he had now entertained a project of diminiſhing the power of the houſe of Anſtria, and Lewis was on the point of being engaged in a war with Italy, yet he diſdainfully rejected the mediation of the king of Denmark and the States-General, agreed to by Charles, and inſiſted that the Venetians ſhould interpoſe their good offices between the two crowns. The articles of this treaty were trifling. The peace was concluded at Suſa, on the fourteenth of April, and publiſhed on the twentieth of May, before Privas, a Proteſtant town, at this time beſieged by the French king. On the ſame day Privas was ſummoned to ſurrender: it held out till the twenty-ninth.

Peace with France.

* Sir Robert Heath, the late attorney-general, was preferred to a judge's place, in the room of Sir John Walter, who was diſcharged from his ſervice becauſe he did not give a ſatisfactory anſwer to the queries concerning members of parliament. *Whitlock*, p. 16.

† It is ſaid, that Sir John Elliot had been tampered with, but that he was found proof againſt all temptation. *Rapin*, note, vol. X. p. 263.

The

The first fruits of the new-sworn amity between the two monarchs was the importation of twelve capuchin friars to serve in the queen's chapel, and the release of certain priests and recusants, delivered to the French ambassador Chateauneuf, who came to receive Charles's ratification and oaths. The next measure taken by the ministry, was to enter into a treaty of peace with Spain. The overture was made by Rubens, the Flemish painter, at the instance of the archduchess Eugenia. Don Carlos de Colonna was sent from the court of Madrid into England to conclude the negociation. The views of Spain were at this time turned towards Italy and France; and the great object of the politics of the king of Spain's favorite, Olivares, was to humble Richlieu. Charles eagerly embraced a proposal so propitious to the designs he had formed against his own subjects. The articles of the peace were signed at Madrid, the fifth of November, 1630. They only confirmed former treaties, and were equally disgraceful as were the articles of the lately-concluded treaty with France. In the one, no stipulations were demanded in favor of the Hugonots, who, contrary to the most solemn promises of protection, were abandoned to the will of their sovereign *;

Anno 1629. Rushworth, vol. II. p. 25, & seq. Du Cheyne, p. 1226.

Peace with Spain.

* The duke de Rohan implored the performance of these promises in the following pathetic letter:

"Sir,

"The deplorable accident of the loss of Rochelle, which God hath pleased to permit, to humble us under his hand, hath redoubled in the spirit of our enemies the passion which they have for our ruin, and the hopes to attain thereunto: but it hath not taken away from those churches of the provinces that courage or affection of opposing, by a just and vigorous defence, their unjust designs. This is that which hath made them take up a resolution, and assemble them-

Anno 1629. in the other, no conditions were made for the Palatine, though his reſtitution was the only object

ſelves together, and to ſtand in a body amidſt thoſe commotions, to aſſiſt me with their good counſel, and provide with me means for their deliverance. And becauſe the moſt powerful mean which God hath raiſed them upon earth is the aid which our churches have received, and do expect from your majeſty, the general aſſembly have deſired that my letter (which ſolely hitherto repreſented the intereſt of the public cauſe) might be joined to the moſt humble ſupplication, which they repreſent. I do it, Sir, with ſo much the more affection, becauſe I am witneſs that this poor people breathe after your aſſiſtance, having once laid down their arms, which the oppreſſion of the enemy made ſo neceſſary; and, becauſe they knew it was your deſire, took them up again, when they learned that your majeſty obliged them to it by your counſel, and by your promiſes. Upon this ſole aſſurance, they have expoſed themſelves to all dangers, overcome all obſtacles, conſumed their goods, and are ſtill ready to ſpill their blood, even to the laſt drop. Your good will they have found more dear than their lives; and notwithſtanding the promiſes and menaces which their enemies have made uſe of to move them, they have not been induced to make any breach of thoſe oaths by which they were tied never to hearken to any treaty, but with your majeſty's conſent. All the churches of this kingdom, which are linked together to an unexampled fidelity, are glorious objects of your charity and power: you are, Sir, defender of that faith which they profeſs. Do not ſuffer it to be unjuſtly oppreſſed. You have ſtirred up their affections by your royal promiſes, and thoſe ſacred words, that your majeſty would employ all the power of your kingdoms to ſhield thoſe churches from the ruin which threatened them, and have been, next to the favor of God, the only foundation of their hopes. They thought it to be one of the higheſt crimes they could commit, to doubt of the performance thereof. If the beginning of their miſeries hath moved their compaſſion, this ſad ſubject hath increaſed upon them with ſo much violence, that there is nothing but your aſſiſtance can prevent their abſolute deſtruction: for at this day the greateſt miſdemeanors which our enemies accuſe us of, and publiſh that it cannot be expiated but by our blood, is the imploring and hoping for your aſſiſtance. Our goods for this are confiſcated and deſtroyed; our farms deſolate and burned to aſhes; our heads expoſed to the block; our families baniſhed; our temples demoliſhed; and every where, where the

of the war. Nor were the States conſulted in this pacific meaſure, though Charles had entered into a treaty with them to check the ambitious views of the Spaniſh monarch. Anno 1619.

The diſgraces which the Britiſh arms had lately ſuſtained, ſunk the reputation of England to ſo low an ebb, that ſhe was inſulted by all nations. In the port of Alexandria, before the peace with France was concluded, four Engliſh men of war pillaged three ſmall veſſels of Marſeilles. On the complaint of the French conſul to the baſhaw of Aleppo, the Engliſh merchants were impriſoned, and their magazines and merchandize Ruſhworth, vol. II. p. 27, & ſeq.

the cruelty of our ruinous enemies can extend, men and women beaten to maſs with ſtaves. In ſhort, the horror and perſecution we ſuffer is ſo great, that our words are too weak to expreſs them.

"Furthermore, we ſee even at our doors powerful armies, which only wait the time to deſtroy thoſe retiring-places which are left, and after that baniſh the exerciſe of religion, and maſſacre the faithful throughout the kingdom. Hereupon, if I ſhould intreat your majeſty not to abandon us, I fear by theſe words to offend a great king, ſo powerful and ſo faithful: but I will take upon me the boldneſs, by reaſon of our preſſing neceſſities, to ſupplicate your ready aſſiſtance to hinder our falling under the ſtrength of our enemies. Your majeſty need not ſearch elſewhere but in your own profound wiſdom and experience, to render your ſuccor redoubtable to thoſe who deſpiſe it, and advantageous to thoſe people who expect it. By this means you will gain the greateſt glory which can be deſired; you will free from fire and ſword three hundred thouſand families, which pray to God continually for your proſperity; will preſerve a people whom God hath purchaſed by his blood, and have kept their faith towards God and man, amidſt the greateſt diſtractions and cruel ſufferings; will place the fidelity of your word, the reputation of your ſtate and your armies, in a point worthy of ſo much grandeur; and in checking the boldneſs of thoſe who undertake to blaſt it daily with unworthy reproaches, will add to your title that of the reſtorer of the moſt innocent people in the world, and the moſt inhumanly perſecuted." *Ruſhworth*, vol. II. p. 4, *& ſeq.*

Anno 1629. English conſul inſulted.

ſeized. Moreover the grand vizier, at that time encamped at Aleppo, in his way to Babylon, ſent for the Engliſh conſul, and after uſing him with great indignity, ordered him to be hanged, with his interpreter. The interpeter was immediately put to death. The conſul, after having lain ſome time in a dungeon, obtained his life and liberty, at the price of thirty thouſand ducatoons. It does not appear, that this injurious outrage was ever reſented by the Engliſh court: The heroiſm of Charles and his miniſtry was totally confined to the triumphs they daily obtained over the laws and conſtitution of their country.

Tonnage and poundage levied with rigor. Ruſhworth, vol. II. p. 8. & ſeq.

The duties of tonnage and poundage were now preſſed with ſuch unremitting violence, that the opulent merchants began univerſally to take the alarm, which was greatly encreaſed by the ſeverity of the orders * iſſued from the council-board to that effect.

* That warrants ſhould be directed to the officers of the cuſtoms in the ports of London and elſewhere, to ſeize and detain the goods of any who ſhould attempt to land without warrant till the cuſtoms were paid; that ſuch merchant-goods as remain on ſhip-board be removed into ſtore-houſes at the cuſtom-houſe-quay, and, for want of room, into the Tower; to remain there till his majeſty's duties, and the freight due to ſhip-maſters, were ſatisfied. And whereas attempts were made, by replevin directed to the ſheriff of London, to obtain thoſe goods out of the ſtore-houſes, the meſſengers of the council were appointed to detain them in their keeping, and to apprehend and keep in ſafe cuſtody all perſons who ſhould make reſiſtance. Letters of command were ſent to the officers and magiſtrates of the ports of the kingdom, to aſſiſt the officers of the cuſtoms in caſe of oppoſition.

Another ſtrict order was made, enabling the meſſengers of the council to enter into any ſhip or veſſel, houſe, warehouſe, to ſearch in any trunk or cheſt, to break any bulk whatſoever, in default of the payment of cuſtoms; and to apprehend all perſons who ſhould give out any ſcandalous

ſpeeches

To prevent the danger of a mutiny, directions were ſent to the lord lieutenants of the reſpective counties, and to the lord-mayor of London, to put the militia on a formidable footing. The farce of proclamations and orders from the council-board againſt recuſants, was again played over, and the biſhop of Chalcedon was hunted out of England by the regular prieſts, who had for ſome time ſeverely perſecuted him; he was received and cheriſhed by cardinal Richlieu. Anno 1629.

Ireland abounded with ſuch enormous grievances, that an offer was made to Charles from that diſtreſſed people of a releaſe of one hundred and fifty thouſand pounds which had been borrowed of them, with a grant of three ſubſidies to be paid in three years, on condition that certain oppreſſions ſhould be redreſſed, and a parliament called to provide for ſuch things as ſhould be found neceſſary for the good of the commonwealth. The conditional favors which were granted to the Iriſh on the acceptance of this offer, ſhew the illegality of the government which had been hitherto exerciſed over this people *. Affairs of Ireland. Ruſhworth, vol. II. p. 16, & ſeq.

ſpeeches againſt his majeſty's ſervice, or cauſe any diſturbance.

* In conſequence of the terms obtained from the Engliſh court by the Iriſh deputies, the following inſtructions were ſent to lord Falkland, then deputy, and to the council of Ireland: That proviſion ſhould be made againſt the laying any burthen upon the Iriſh for the payment of ſoldiers, except in caſes of inevitable neceſſity; and againſt the granting protection to perſons againſt whom judgment had been given in any of the courts of law; to reſume, or limit in their exerciſe, ſeveral grants and patents for the ſelling of aqua vitæ, wine, and other commodities; regulations to be made in the commiſſions for reſtraining the oppreſſions of ſoldiers, in the manner of collecting the King's rents, of laying aſſeſſments for robberies, of granting reprieves to malefactors, of ſummoning grand-juries, and impoſing fines upon the abſent; the fees of officers of courts, ſheriffs, and clerks of the

Anno 1629. To the regulations, calculated for the general good and quiet of the realm, was added one in

market, to be moderated; the number of provoſts-marſhal to be reduced to one in a province, their power reſtrained, ſo as not to execute any perſons who might be brought to a trial at law, unleſs in time of rebellion; witneſſes in private cauſes not to be bound over to the Caſtle-chamber, nor jurors to be bound over to any court, but upon very apparent ſuſpicions of corruption and partiality; cuſtodiums of lands granted upon outlawries to be diſcharged immediately upon ſight of certificates of the reverſal thereof; the teſtimony of perſons notoriouſly infamous, and capitally convicted, not to be admitted for the condemnation of any ſubject, but under certain reſtrictions; ſpeedy juſtice to be done to the poor; the court of Wards to be regulated; certain rules to be obſerved for the better diſcharge of the paſtoral care; certain indulgencies to be granted for the advancement of trade, ſuch as the tranſporting out of the kingdom tallow, hides, freſh beef, and pork in caſk, without licence; for the better ſecuring the ſubjects in the quiet enjoyment of their lands, the King to take no advantage of any title accruing to him antecedent to the term of ſixty years; the Scots of the undertakers in Ulſter to be made denizens, and all of them to be confirmed in their eſtates, on doubling their rents, and paying a fine of thirty pounds for every thouſand acres. To quiet the minds and ſecure the poſſeſſions of the lords, gentlemen, and freeholders of Connaught and Clare, they were admitted to inrol the ſurrender made in the laſt reign; and ſuch as had a mind to make new ſurrenders, were to have the ſame accepted and inrolled, and new patents paſſed to them. The lords and gentlemen of the province of Connaught and the county of Clare, had, on a compoſition, ſurrendered their eſtates into the hands of Elizabeth, but had neglected to inrol their ſurrender, and to take out letters-patent for them. Theſe were granted them in the thirteenth year of king James; but not being inrolled in Chancery, their titles were ſtill defective. This omiſſion was occaſioned by the neglect of a clerk entruſted by them. They had paid near three thouſand pounds to the officers at Dublin for the inrolment. Notwithſtanding that an act of ſtate had paſſed in their favor in the year 1618, and that they had paid great ſums of money for it, the crown entertained a project of reſumption. It was laid aſide on the danger which might accrue from making ſuch an experiment on a province, ſtrong from its ſituation, and from the number of its inhabitants.

For

favor of Roman Catholics; that the lawyers, and such as held *in capite* of the crown, ſhould be diſpenſed with in regard of the oath of ſupremacy, and, on their taking an oath of allegiance to Charles as lawful king of the realm, allowed to practiſe, and ſue their liveries *ouſter les mains*. On this and other indulgencies, the Popiſh party grew ſo aſſuming, that they openly profeſſed their religion in every part of Ireland. They founded a new univerſity at Dublin, to breed up the youth in an entire devotion to the Pope; erected friaries, monaſteries, and nunneries, and repleniſhed them with votaries; ſaid maſs in the churches, excommunicated thoſe who, even in matrimonial cauſes, applied to the Spiritual-court, and raiſed a tumult at Dublin on the magiſtrates attempting to apprehend an officiating prieſt. On the lord-deputy's iſſuing out a proclamation, commanding them to forbear the public exerciſe of their Popiſh rites, they carried their complaints to court againſt the government of Ireland. The king had the complaiſance to recal the deputy, and appointed Loftus (the lord-chancellor), and the earl of Cork (the lord-treaſurer), to manage the affairs of that kingdom. Theſe, it is ſaid, had private orders to ſlacken the perſecution which was intended by the council of Ireland againſt the Roman Catholics.

Anno 1629.

Guthrie, vol. III.

Whilſt, from the neglect or connivance of government, the Papiſts thus triumphed in Ireland, ſome important ſteps were taken to improve the hierarchical tyranny in England. Laud, and

Heylin's Life of Laud. p. 109, & ſeq. Meaſures to advance the hierarchy.

For a further ſecurity to all the proprietors, their ſeveral eſtates to be confirmed to them and their heirs by the next parliament to be held in the kingdom, in which an act was to be paſſed for a general pardon. *Carte's Life of Ormond*, vol. I. p. 47, *& ſeq.*

Anno 1629. Harſnet, archbiſhop of York, drew up a paper for the benefit of the church: after it had received the King's approbation, it was ſent to the archbiſhops, by them to be communicated to the biſhops of both provinces. It contained nine articles, called Regal Inſtructions: they are precautions againſt the Puritans, or any diſſenting from the doctrine approved of by authority. Laud wrote letters to all the archdeacons in his dioceſe, exhorting them to the performance of what the King required, at the peril of loſing his majeſty's favor, or whatſoever elſe might follow *.

* In conſequence of this exhortation, and the aforeſaid inſtructions, one Palmer, a popular miniſter, was ſilenced by the commiſſioners, on the accuſation of Dean, archdeacon of Canterbury, That he read prayers againſt the miniſtry's will, and not according to the canon; that in the catechiſing he took upon him to declare the King's mind in his inſtructions; that he had never heretofore read prayers, or uſed the ſurplice in the church; that he preached a factious ſermon in the cathedral-church, and detracted from divine ſervice there; that factious parties in all the pariſhes in the town were his auditors. Abbot, the archbiſhop of Canterbury, who diſliked the limitations concerning lecturers, in the King's inſtructions, with other articles tending to eſtabliſh Arminianiſm, and knowing the worth and innocence of Palmer, authorized him, and one Udnay, another ſilenced miniſter, again to preach, and inhibited the archdeacon from his juriſdiction. Many other miniſters were ſuſpended, and enjoined recantation, for lightly touching on any points contrary to Popery, or the new doctrine.

A patent having paſſed the great ſeal for a collection towards the relief of the exiled Palatine miniſters, Laud objecting to a particular clauſe in it, the patent was cancelled, and a new one granted, with the offenſive paſſage left out. The clauſe was as follows: "Whoſe caſes are more to be deplored, for that this extremity is fallen upon them for their ſincerity and conſtancy in the true religion, which we, together with them, do profeſs, and which we are all bound to maintain to the utmoſt of our powers; whereas theſe religious and godly perſons, being involved amongſt others their countrymen, might have enjoyed their eſtates and fortunes, if,

As a reward to the miniſters of the city of York for their punctuality in obſerving the late inſtructions to the clergy, an addition was made to their yearly maintenance, by an arbitrary tax laid on the rent of houſes in York. Davenant, biſhop of Sarum, was called before the council, and ſeverely reprimanded for having, in a ſermon preached at court, ſlightly touched on the points prohibited in the King's declaration. The univerſity of Oxford vied with its rival, Cambridge, in complaiſance to the royal inclinations: on the death of the earl of Pembroke, which happened in the beginning of this year, they elected Laud their chancellor *, who ruled the

Anno 1629.

if, with other back-ſliders, in the time of trial, they would have ſubmitted to the antichriſtian yoke, and would have renounced or diſſembled the true religion."

Prynne tells us, that when the patent with the above clauſe was ſhewn to Laud, he fell in a great paſſion, and proteſted, that were it not for his reſpect and engagement to the queen of Bohemia, the Palatine miniſters ſhould have no collection; that he could find in his heart to quaſh it; however, he would have a patent drawn in another form. After this, ſecretary Cook and the lord-keeper Coventry were ſent for to the King: They acquainted him, that the patent was made according to the former precedents; that they had his majeſty's hand and royal aſſent thereto; it had paſſed the great ſeal, and could not now be altered. To this the King anſwered, "It muſt be altered; the archbiſhop will have it ſo; draw another according to his mind." So great was this prelate's care leſt the Engliſh church ſhould be ſullied with the principles of the reformed religion, that on the prince palatine's coming into England in the year 1637, a declaration of the faith and ceremonies of the Palſgrave's churches being publiſhed, they were ſtrictly called in, and ſeized by the High-commiſſion purſuivants. *Trial of Laud, by Prynne*, p. 391, *&c. ſeq.*

* There was not a general conformity among this learned body to the humors and deſigns of the court. Ford of Magdalen-college, Thorne of Baliol-college, and Hodges of Exeter-college, being convented before the vice-chancellor Dr. Smith, for preaching againſt the King's inſtructions, appealed

Anno 1629. conſcience of his pious maſter with a deſpotic tyranny. He was his ſpiritual and political guide, and from this circumſtance had an entire sway in the High-commiſſion court, the Star-chamber, and the Privy-council; which laſt had now erected itſelf into an abſolute court.

Perſecution of miniſters. Mr. Bernard, lecturer of St. Sepulchre's, London, preached a ſermon at St. Mary's in Cambridge, in which were ſome paſſages againſt introducing Pelagian errors, and Romiſh ſuperſtitions, into the church of England. On his refuſing to make a public recantation, penned for

pealed from him to the convocation: The proctors received the appeal. By the means of Laud, the matter came before the King and council, who paſſed a ſentence that Ford, Thorne, and Hodges, ſhould be baniſhed the univerſity, and that both the proctors ſhould reſign their offices. Dr. Prideaux, rector of Exeter-college, and Dr. Wilkinſon, principal of Magdalen-Hall, received a ſharp admonition for their behavior in this buſineſs. The town of Plymouth ſhewing an intention to chuſe Ford their lecturer, they were required not to do it, on pain of the King's diſpleaſure, and the biſhop of Exeter was enjoined not to admit him in that capacity.

Mr. Hodges, on an abject ſubmiſſion in the following preſcribed form, was reſtored to the Univerſity: 1ſt, A public recantation-ſermon in St. Mary's church in Oxford, confeſſing his great offences in preaching contrary to his majeſty's declaration. 2dly, A ſubmiſſion and recantation in the convocation-houſe, before the whole aſſembly of doctors, proctors, &c. In this he was to acknowledge, that he fell upon the delivery of thoſe points which, by his majeſty's royal injunctions, were forbidden him to meddle with at all; and that he let fall ſome paſſages which might be taken to the diſparagement of the government of the church; for which offence he had deſerved the ſharpeſt of cenſures, and ſevereſt of puniſhments; and therefore his royal majeſty juſtly rewarded him for the ſame. He was to implore the pardon of the Univerſity in general, and more eſpecially of the moſt honorable chancellor of that Univerſity. *Ruſhworth*, vol. II. p. 110, *& ſeq. Heylin's Life of Laud*, p. 215. *Prynne's Trial of Laud*, p. 174, *& ſeq.*

him,

him, he was fined in the High-commiſſion court one thouſand pounds, ſuſpended from his miniſtry, condemned in coſts of ſuit, and committed to priſon, where he died: The conſequence of his impriſonment, it is ſaid, ſhortened his life. One Workman, lecturer in the liberty of Gloceſter, was, for the offence of preaching againſt images, ſuſpended from his office, excommunicated, ordered to make recantation of his erroneous and ſcandalous doctrine, condemned in coſts of ſuit, and impriſoned. The corporation of Gloceſter, approving much of this man for his diligent performing the duties of his function, had, on account of his great family, granted him an annuity of twenty pounds *per ann.* under their common ſeal. For this act of generoſity, Laud ſummoned the mayor, and other of the aldermen, before the council-table, as delinquents. The deed was cancelled, and two of the defendants fined ten pounds a-piece, though their council alleged, that the grant ought firſt to have been proved illegal, and the whole corporation, whoſe act it was, made parties to the ſuit. The unfortunate Mr. Workman, thus deprived of his annuity, having, after ſome months impriſonment, obtained his liberty, taught children in private: Laud forbid him to follow this occupation. He then practiſed phyſic for the ſupport of his family; but the mercileſs Laud prohibiting him this reſource, the diſtreſſed man ſunk under his poverty and affliction, and in a ſhort time died.

Anno 1629.

Prynne's Trial of Laud, p. 103. & ſeq.

Theſe exceſſes, when compared to what follows, were but moderate abuſes of that abſolute ſovereignty which Charles had aſſumed, and delegated to Laud. Alexander Leighton, a doctor of divinity, a Scotchman, and a zealous Puritan, by

Leighton's cruel uſage.

Anno 1630. by deſire of ſome of the party, had written and publiſhed a book, called, "Zion's Plea againſt Prelacy." It contained ſome warm imprudent invectives againſt the prelates, and the conduct of thoſe in power. Soon after the publication of the work, without an information upon oath, or legal proof * who was the author, Leighton, as he was coming from church, was arreſted by two High-commiſſion purſuivants. They dragged him to the houſe of Laud, where he was kept till ſeven in the evening, without food. Laud returning home at this time in great pomp and ſtate, with Corbet biſhop of Oxford, Leighton demanded to be heard. The haughty Laud did not deign to ſee him, but ſent him to Newgate: He was clapped into irons, and confined in an uninhabitable apartment, where, notwithſtanding the weather was cold, and the ſnow and rain beat in, there was no convenient place to make a fire. From Tueſday-night to Thurſday-noon, he was unſupplied with food; and in this infernal dwelling was kept fifteen weeks, without any friend, not even his wife, being ſuffered to come near him. His own houſe was in the mean time rifled by the officers of the High-commiſſion court; his wife and child treated by theſe ruffians with great barbarity; himſelf denied a copy of the commitment; and the ſheriffs of London refuſed to bail him, on his wife's petition. At the end of the fifteen weeks, he was ſerved with a ſubpœna. Heath, the attorney-general, on an aſſurance that he ſhould come off well, extorted a confeſſion from him, that he was the author of the book. An information by Heath being lodged in the Star-chamber, he confeſſed the writing of the book, but with no ſuch ill inten-

Ruſhworth, vol. II. p. 55, & ſeq.

* The book was printed beyond ſea.

tion

tion as the information ſuggeſted. He pleaded, Anno 1637.
that his aim was to remonſtrate againſt certain grievances in church and ſtate, under which the people ſuffered, to the end that the parliament might take them into conſideration, and give ſuch redreſs as might be for the honor of the King, the quiet of the people, and the peace of the church. This anſwer not being admitted as ſatisfactory, the following cruel ſentence, by the unanimous conſent of all the members of this tyrannical court, was pronounced againſt him, though ſick and abſent: "That he ſhould pay a fine of ten thouſand pounds to his majeſty's uſe; and in reſpect that the defendant had heretofore entered into the miniſtry, and the court of Star-chamber did not uſe to inflict any corporal or ignominious puniſhment upon any perſon ſo long as they continued in orders, the court referred him to the High-commiſſion, there to be degraded of his miniſtry; that done, for farther puniſhment, and example to others, the delinquent to be brought into the pillory at Weſtminſter (the court ſitting), and there whipped; after his whipping, to be ſet in the pillory for ſome convenient ſpace; to have one of his ears cut off, his noſe ſlit, and to be branded in the face with S. S. for a ſower of ſedition; then to be carried to the priſon of the Fleet; and at ſome other convenient time afterwards to be carried into the pillory at Cheapſide upon a market-day, to be there likewiſe whipped, then ſet in the pillory, have his other ear cut off, and then be carried back to the priſon of the Fleet, there to remain during life, unleſs his majeſty be graciouſly pleaſed to enlarge him *." This ſentence was given at the end of

* It is ſaid, that when this ſentence was pronounced, biſhop Laud pulled off his cap, and gave God thanks for it.

Trinity-

Anno 1630. Trinity-term. It was not till Michaelmas-term following, after the degradation, that it was put in execution. The evening before the intended day of ſuffering, Leighton eſcaped out of priſon. He was apprehended in Bedfordſhire, and brought again to the Fleet *.

On Friday, November the ſixteenth, part of his ſentence was executed in this manner: In the New-Palace-Yard at Weſtminſter, in term-time, he was ſeverely whipped, then put in the pillory, where he had one of his ears cut off, one ſide of his noſe ſlit, branded on one cheek with a red-hot iron with the letters S. S. and afterwards carried back again priſoner to the Fleet, to be kept in cloſe cuſtody. On that day ſevennight, his ſores upon his back, ears, noſe, and face, not being cured, he was whipped again at the pillory in Cheapſide, and there had the remainder of his ſentence executed upon him, by cutting off the other ear, ſlitting the other ſide of the noſe, and branding the other cheek. Dr. Leighton, in his own account of this horrid execution, adds, that the hangman was made half drunk, and enjoined to perform his office with ferocity; that he ſtood, after receiving the puniſhment of the laſh, almoſt two hours in the pillory, expoſed to froſt and ſnow, and then ſuffered the reſt; that being with theſe miſeries diſabled from walking, he was denied the benefit of a coach, and carried back to

* Laud, the ſuperintendant of all the cruelties committed at this period, made on this incident the following memorial: "Leighton was degraded at the High-commiſſion, Tueſday the ninth of November. That night Leighton broke out of the Fleet. The warden ſays, He got, or was helped, over the wall; and moreover profeſſed, he knew not this till Wedneſday-noon: He told it not me till Thurſday-night. He was taken again in Bedfordſhire, and brought back to the Fleet within a fortnight." *Laud's Diary by Prynne*, p. 16.

priſon

priſon by water, to the farther endangering his life. Elphinſton and Anderſon, two of his friends and countrymen, who helped to procure his eſcape, were for this act of humanity fined in the Star-chamber five hundred pounds a-piece, and committed to the Fleet during the King's pleaſure. Anno 1630.

I have been more particular in the account of this barbarous exertion of power, becauſe almoſt every other hiſtorian, either from tenderneſs to the character of the government, or from motives of abhorrence to the nature of the offence given by the wretched ſufferer, has paſſed it over in a very ſlight manner. It muſt be owned, that Leighton, fired by an ungovernable zeal, and provoked by the miſchievous conduct of the people in power, had made a very bold attack on the eccleſiaſtical conſtitution as maintained by Charles, and had been bitter in his reflections on the queen, who, from the influence ſhe had now gained over her huſband, was generally regarded as the principal cauſe of his unpopular government. Notwithſtanding all which may be ſaid againſt the conduct of this unfortunate enthuſiaſt, his offence was by no means adequate to his puniſhment; his treatment and proſecution notoriouſly inhuman and illegal; the judgment paſſed againſt him was by an arbitrary court, whoſe juriſdiction was unconſtitutional, in a manner created by the crown, and cheriſhed as a never-failing engine of deſpotiſm. The tyranny it at preſent exerted outwent every example of former ages: It was the ready miniſter of vengeance to all who oppoſed the weak and wicked deſigns of a bigoted, arbitrary monarch; and entirely influenced in its conduct by the perſecuting furious ſpirit of an arrogant uſurping prieſt, who was purſuing

Anno 1630. purſuing with the utmoſt violence the plan of an abſolute, independent, eccleſiaſtical government. The ſentence it had lately paſſed againſt the unhappy Leighton was directly contrary to the humane ſpirit of the Britiſh laws; and the ſingle inſtance of ſuch an execrable barbarity would have diſgraced the government of an abſolute monarch.

The public were ſtrongly affected by this impolitic act of cruelty. Laud increaſed the popular clamor by ſeveral Popiſh fopperies which he introduced on his conſecration of St. Catherine Creed's Church, which had been new built by the pariſhioners, and for ſome time prophanely made uſe of for religious offices, without the ceremony of a new conſecration. This coming to the pious prelate's ears, he ſuſpended it from all divine ſervice till he had performed this office, which he did with much ſolemnity, to the ſurprize of an infinite number of ſpectators, who were ignorant of the neceſſity of ſuch a ceremony *. The communion-table was removed

Ruſhworth, vol. II. p. 76, & ſeq.

* On his coming to the Weſt door of the church, ſeveral loud voices, previouſly prepared, cried out, "Open, open, ye everlaſting doors, that the king of glory may come in." On the doors opening, the biſhop entered the church, and fell on his knees; then, with his eyes lifted up, and his arms expanded, he uttered theſe words: "This place is holy; the ground is holy; in the name of the Father, Son, and Holy Ghoſt, I pronounce it holy." Then going towards the chancel, he ſeveral times took up the duſt, and threw it in the air. When he approached the communion-table, he bowed frequently towards it; and returning, he and his attendants went round the church in proceſſion, repeating the hundredth pſalm; after this the nineteenth pſalm; and then ſaid a form of prayer, which concluded thus: "We conſecrate this church, and ſeparate it unto thee as holy ground, not to be prophaned any more to common uſes." After this, the biſhop, at the communion-table, pronounced imprecations on all who ſhould pollute that holy place, by muſters of ſoldiers,

from the middle of the area, where it had hitherto ſtood in all churches, except in cathedrals; it was placed at the Eaſt end, and denominated an altar. It is difficult to imagine how violent the zeal of this man was to introduce theſe kind of innovations. In adminiſtring the ſacrament, kneeling at the altar and uſing of copes were rigorouſly inliſted on; the crucifix reſumed its conſequence; and the churches were ornamented Anno 1630.

diers, keeping prophane law-courts, or carrying burthens through it. On the concluſion of every curſe he bowed towards the Eaſt, and ſaid, "Let all the people ſay Amen." When the imprecations were ended, he poured forth bleſſings on all thoſe who had any hand in framing or building that ſacred and beautiful edifice, and on thoſe who had given, or ſhould hereafter give to it any chalices, plate, ornaments, or utenſils. On the concluſion of every benediction he in like manner bowed towards the Eaſt, and ſaid, "Let all the people ſay Amen." A ſermon ſucceeded. Then the biſhop conſecrated, and adminiſtred the ſacrament in the following manner: As he approached the communion-table, he made many low reverences, and coming up to that ſide of the table where the bread and wine were placed, he bowed ſeven times. After reading many prayers, he approached the ſacramental elements, and lifted up the corner of the napkin wherein the bread was laid. When he beheld the bread, he ſuddenly let fall the napkin, ſtarting back a ſtep or two, bowed three ſeveral times towards it, then drew near again, opened the napkin, and bowed as before. Then he laid his hand on the cup, let it go again, went back and bowed thrice towards it, then drew near and lifted up the cover; on ſeeing the wine, he let fall the cover, again retired back, and bowed as before. After this ceremony, he received the ſacrament, and adminiſtred it to others. Many prayers followed, which concluded the ſolemnity of the conſecration.

The ſame was acted over at the church of St. Giles in the Fields; and Laud after this conſecrated two new-built churches; the one at Hammerſmith, and the other at Stanmore-Magna in the county of Middleſex, with divers chapels, obliging the ſeveral pariſhes to pay fees to himſelf and officers for performing thoſe ceremonies. *Heylin's Life of Laud*, p. 212, *&c ſeq.*

Anno 1630. with pictures which were to be found in the mass-books *.

* Sherfield, the recorder of Salisbury, was prosecuted in the Star-chamber for having, in the windows of St. Edmund's church in that city, destroyed, by an order of the vestry, some panes of painted glass which represented the Creation. To the information lodged against him in this court, he argued, that the church was a lay-fee, exempted from the jurisdiction of the bishop of the diocese; and that the parishioners had lawful power, without special licence from the bishop, to take down the glass of the window, and repair it with white glass. He farther pleaded, that the window was not fair and costly, as the information set forth, but of very rude work; that it was of four lights only, and not any of the fair windows in the church. He denied the riotous breaking of the window: He took a few small quarries of it down, in a quiet and peaceable manner; that it was not a true history of the Creation, but a false description of the same, wretchedly executed; that the painter, to express God the Father, had painted the forms and pictures of divers little old men, seeming bare-footed, and clothed in long blue coats; that he held it ungodly, and altogether unlawful, to frame any image or similitude of God the Father, Creator of heaven and earth, and the first person in the Holy Trinity; that this his belief was the doctrine of the church of England established by act of parliament in 13 Eliz.; that according to an act of parliament, anno 1 of this queen's reign, injunctions were published, whereby all who had cure of souls were commanded to instruct their parishioners to destroy pictures and monuments of idolatry and superstition, that no memory thereof might remain in walls, glass windows, or elsewhere; that it was to be enquired of in the visitations, whether all images, pictures, paintings, and other monuments of idolatry, were removed; and that these injunctions being grounded on the statute of the 1 Eliz. were yet in force.

Notwithstanding this plea, the court pronounced sentence, That Mr. Sherfield should be fined five hundred pounds, and removed from his office; that he should repair to the lord-bishop of his diocese, and make acknowledgment of his offence and contempt, before such persons as the bishop should call unto him; and that he should be bound to his good behavior.

Bishop Laud, who was very vigilant in this prosecution, made a long speech, in which he endeavored to prove, that the custom of setting up images was not only inoffensive but laudable. "God the Father in the prophet Daniel, was called

To give to religion that external magnificence agreeable to the deſigns of the Arminian prelacy, Anno 1630.

called the Ancient of Days; and images had been uſed in the earlieſt times of the church. However that might be, the act which Mr. Sherfield had committed was highly criminal, becauſe done in contempt, or at leaſt in neglect, of the authority of the church. If it had been the idol of Jupiter, and the people had profeſſed divine worſhip to it, it would have been criminal in Mr. Sherfield to deface it, without lawful authority, as could be proved from ſcripture." Laud complained, that there had been many inſolencies committed in that church: A biſhop's bones had been taken up, and all to bury a tanner's wife. Mr. Sherfield had been guilty of breaking a conſecrated thing: it pleaſed God to give him a fall upon the place; yet theſe things had not wrought him to confeſſion that he had done amiſs. Laud finiſhed his harangue with propheſying, that the time would come in this kingdom when all thoſe who deſpiſed the church would be brought low.

Neile, archbiſhop of York, made an elogium on the uſe of images and the crucifix; he reprimanded the defendants for aſſerting, that the authority queen Elizabeth had to reform, and ſet forth her injunctions, were given by her parliament: the ſtatute of the firſt of Elizabeth, he ſaid, was but an act declaratory, not to be taken as if the Queen, without it, had no power to meddle with the things of the church. He that ſaid, *Per me reges regnant*, giveth this authority to the King.

Lord Cottington gave a ſevere ſentence againſt Sherfield, as did the lord Arundel, who alledged, that it was not unlawful to expreſs God the Father by repreſentation. The earl of Dorſet ſaid, that in the text of Daniel was meant God from eternity, and not God to be pictured like an old man, creating the world with a pair of compaſſes. He and all the temporal members, who differed from the prelates in this ſentence, made many profeſſions of their veneration for the power of the church; that Sherfield was highly criminal in not paying due reſpect to its authority, and ought to make acknowledgment to the biſhop.

Smart, prebend of Durham, having complained to the Commons in the year 1628, that Dr. Coſens had introduced in that cathedral ſeveral Popiſh innovations, he was, after the diſſolution of the parliament, ſucceſſively brought into the High-commiſſion courts at Durham, Lambeth, and York, deprived of all his eccleſiaſtical livings, impriſoned ſeveral years, and his preferment given to others.

Anno 1631. Rushworth, vol. II. p. 88, & seq.

the active Laud undertook the repairing and rebuilding of St. Paul's. His devout master, by his authority and countenance, encouraged the expensive project, and, with all the ostentation of royal parade, made a visit to this cathedral; where, after divine service was performed, he solemnly promised not to be wanting in the piety of his best endeavours to the repair of those ruins which time, the casualties of weather, or any other accident, had brought upon it. Legal justice was a virtue which made no part of the religious or moral character of Charles: so, in the execution of this new scheme, power supplied the defects of law, and every obstacle to the undertaking was removed by an exertion of that unlimited authority which he had assumed over his subjects. By an order of the privy-council, St. Gregory's church being an impediment to the work in hand, was, at the great expence of the inhabitants, removed. Houses and shops were pulled down, and the proprietors obliged to accept such a compensation as should be judged adequate by commissioners appointed by authority. In those counties where there was found a slowness in contributing to the briefs issued forth under the great-seal, persons of wealth and influence were quickened by reprehensions from the council-table *.

Acts of power.

From the accession of Charles to this period, the plague had continued to rage with more or less violence in the city of London. It carried off this year 1317 persons. *State Trials*, vol. I. p. 377, *& seq.* *Rushworth*, vol. II. p. 80.

* Sir Francis Knowls and Sir Thomas Vachel, two justices of peace for the county of Berks, received letters wherein they were taken to task, "for delaying to publish his majesty's commission, and forbearing to express their own liberalities to so pious a work; and were enjoined for the redeeming of opportunity already let slip, to redouble their diligence, and to return an exact account of the money given by themselves and

Whilſt Laud was thus exalting the croſier, rendering his maſter the ſubſtitute of metropolitical power, and the privy-council the executioners of eccleſiaſtical inſolence and cruelty, Charles was ſtudying the means to raiſe a ſum of money which ſhould provide ſufficiently for the ſupport of the crown, without the aſſiſtance of parliament. The firſt expedient practiſed was not only to continue tonnage and poundage, but alſo to enhance the book of rates upon ſeveral merchants goods; and the collection of ſuch rates to be inforced out of the courſe of the ordinary courts of juſtice. The next was a proclamation, in which every man who had been poſſeſſed of forty pounds a-year for three years, and had not been knighted at the King's coronation, was ſummoned to compound, as well for their fines and contempts, as for their reſpite to take that order upon them *. Many were put

Anno 1631.

Ruſhworth, Preface to vol. II.

Impoſitions.

and others, that the King, being therewith acquainted, might diſtinguiſh between ſuch as were forward and well affected, and ſuch as were ſlack and remiſs in doing God and him ſervice." To ſhew the expence requiſite to repair this cathedral, and ornament it according to Laud's plan, it may not be improper to relate, that from the zeal of that faction devoted to the church, and money extorted by various ways from the reſt of the ſubjects, the public contributions amounted to upwards of 101,330l. The King gave upwards of 10,000l. and the fines and commutations in the High-commiſſion and ſpiritual courts were commonly aſſigned to this uſe: A general murmur aroſe, that penalties were impoſed for a tax to St. Paul's. The public was not only diſſatisfied at the arbitrary manner in which this buſineſs was conducted, but at the many new images and ornaments with which this ſtately edifice was adorned. *Complete Hiſt.* vol. III. p. 67. *Whitlock*, p. 17. *Heylin's Life of Laud*, p. 222, *& ſeq.*

* This was an exceſſive degree of oppreſſion, becauſe Charles had, on account of the plague which raged in London at the time of his coronation, in a manner diſpenſed with the attendance of ſuch ſubjects as were qualified to be knights. There is reaſon to believe, that money was extorted from people

Anno 1631. to great expence in the Exchequer and Star-chamber, for refuſing to pay the compoſition-money *,

ple who were not in poſſeſſion of forty pounds per year. *Vide Strafford's Letters, &c.* vol. I. p. 419.

* James Malverer, of Arncliffe in the county of York, ſubmitted to the judgment of the court of Exchequer what fine they ſhould think fit to impoſe on him. The court refuſed that courſe of impoſing a fine, and put the party ſubmitting to compound with commiſſioners in the county. Malverer complained, that afterwards, upon writs of diſtraint from the Exchequer, ſeveral exceſſive fines were returned upon his lands, amounting to the ſum of two thouſand pounds, a great part of which he paid. In like manner the lord chief-baron, and the reſt of the barons of the Exchequer, did order the ſame undue proceedings againſt Thomas Moyſer, Eſq. and againſt ſeveral other his majeſty's ſubjects, in different parts of the realm, to the undoing of many of them.

It is ſaid, that above an hundred thouſand pounds were brought into the treaſury, extorted on this buſineſs of knighthood. The impoſition was ſo univerſally diſliked, that many of the ſheriffs neglected to execute their orders, and return the names of perſons qualified. The attorney-general was directed to proceed, by information in the Exchequer, againſt the ſheriffs who ſhould appear to have been moſt negligent.

This impoſition was grounded on a ſtatute made in the firſt of Edw. II. called *Statutum de Militibus*. It exempted thoſe from taking knighthood who were not poſſeſſed of twenty pounds per year; thoſe who were not of age, and thoſe whoſe land was held in manors which were ancient demeſnes of the crown, which land was obliged to pay talliage; thoſe clerks in holy orders who held lay-fees, and thoſe who held burgage-land; thoſe who had held their lands but a ſmall time; thoſe who pleaded great age, default of their members, or any other incurable infirmity, as charge of children, or of [illegible], were admitted to compound on reaſonable fines.

This ſtatute was enacted when the ſyſtem of feudal ſervices in perſon during war exiſted; and though it was now aboliſhed, yet as this ſtatute, which had been made whilſt it was in full force, remained unrepealed, Charles's miniſtry pretended, that the right of impoſing the honor remained ſtill with the crown; and that the King might oblige all perſons to be knighted, or to pay compoſition; the qualification to be forty pounds per year.

Beſides the palpable injuſtice of receiving a tax founded on a ſyſtem which did not now exiſt, twenty pounds per year, in the time of Edw. II. were equivalent to two hundred in the

required to be one third and a half as much as the perſons compounding would be rated in the gathering a tax of three ſubſidies and a half. Anno 1631. Franklyn's Annals, p. 381.

In order to exerciſe the militia, and put them on a formidable footing, each county was aſſeſſed at a certain ſum for the entertainment of a muſter-maſter appointed for that ſervice. Compoſitions were again openly made with recuſants, notwithſtanding a ſtatute enacted, in the laſt parliament of James's reign, againſt the diſpenſation of penal laws. The ſame ſtatute had aboliſhed monopolies, but had left an exception in favor of new inventions. Under the pretext of theſe, and of erecting new companies and corporations, monopolies were again revived on all ſorts of commodities: ſoap, ſalt, wine, leather, ſea-coals, pins, ſtarch, even to the ſole gathering of rags *. Monopolies. Ruſhworth, Preface to vol. II. and vol. II. p. 12, & ſeq.

A large revenue was raiſed by theſe oppreſſions †. Proclamations continually iſſued from

the ſeventeenth century. *Ruſhworth*, vol. II. p. 135, & *ſeq.* p. 70. *Statutes at Large.*

* An office was erected for ſealing cards and dice, a new illegal tax. A patent was granted to one Francis Tucker, gentleman, and others, giving them power to dig or delve in any place in England and Wales for hidden treaſure, on their paying to the crown the fourth part of what they ſhould find, and making ſatisfaction according to the valuation of the next juſtice of peace. Another patent was granted to one David Ramſey, for the ſole privilege of ſeparating metals, on condition that one third of the profit ſhould be paid to the crown. *Ruſhworth*, vol. II. p. 103. & *ſeq.* *Rymer*, vol. XIX. p. 157, 201.

† Soapboilers were prohibited the trade, unleſs they entered into the new-erected corporation. It paid ten thouſand pounds in advance, and eight pounds *per* ton. Moreover, an office was erected with full powers to ſuperintend the ſaid corporation, and to mark ſuch ſoap as ſhould be thought fit for ſale: The ſubject was prohibited to ſell any ſoap unleſs ſo marked. It is eaſy to ſee the evil conſequences to trade which ſuch an oppreſſive power, exerciſed by the crown, muſt produce:

Anno 1631. the council, enjoining what was not enjoined by law; and the Star-chamber cenſured by heavy mulcts and impriſonments any diſobedience to theſe proclamations *.

duce: Like other national evils, it aſſumed pretenſions to public utility—the preventing the bringing any bad ſoap to market. An information was prefixed in the Star-chamber, by Noy, the attorney-general, againſt ſixteen ſoap-makers, defendants, charging them with ſeveral offences contrary to letters-patent, and proclamations touching the making and uttering ſoap, and uſing the trade of ſoap-makers. The defendants ſet forth ſeveral acts of parliament, letters-patent, charters, cuſtoms, and acts of common-council of the city of London, and other matters materially conducing to their defence, and in concluſion pleaded Not Guilty. The court of Star-chamber referred to Sir Robert Berkley, one of the juſtices of the court of King's Bench, to conſider of the impertinency, as it was termed, of the defendants' anſwer. Berkley certified the ſaid court, that the whole anſwers, excepting four words, and the ten laſt lines, ſhould be expunged, leaving no more ſubſtance than the plea of Not Guilty. On another reference to Sir Robert Berkley, on the pretended impertinency of the interrogatories, and depoſitions of witneſſes taken on the defendants' part, he certified, that the ſaid interrogatories ſhould be ſuppreſſed. By reaſon of this certificate, the ſixteen defendants were, by a ſentence of the court of Star-chamber, committed to the Fleet, diſabled from uſing their trade of ſoap-making; one of them fined in the ſum of fifteen hundred pounds, two of them in one thouſand pounds each, and four of them in one thouſand marks each. The corporation of ſtarch-makers covenanted to pay into the Exchequer, for the firſt year the ſum of fifteen hundred pounds, for the ſecond year the ſum of two thouſand five hundred pounds, and after the ſaid two years the ſum of three thouſand five hundred *per ann.* A ſurveyor and commiſſioners were alſo appointed by the crown to ſuperintend this company. *Ruſhworth*, vol. II. p. 12, *& ſeq.* p. 136. 165. vol. III. *Appendix*, p. 109.

* This court, on every pretext, condemned to exceſſive fines for the King's uſe all thoſe who were cited before them. The printers of a new edition of the Book of Common-Prayer ſuffered a large pecuniary mulct for leaving out one letter.

One Allinſon, for ſaying that the archbiſhop of York had aſked a limited toleration for the Papiſts, was condemned to a fine

The old obſolete laws of the foreſt were revived, by which not only great fines were impoſed, but great annual rents intended to be ſettled by way of contract. The better to effect the ſame, examples were made, by ſentence in the Star-chamber againſt ſeveral perſons for depopulations, nuiſances in building, pretended encroachments upon the foreſts; with other things of the like nature *. A proclamation was Anno 1631. Proclamation.

a fine of one thouſand pounds, to be committed to priſon, to be bound to his good behavior during life, to be whipped, to be ſet in the pillory at Weſtminſter, and at York, Ipſwich, and Yarmouth.

Lord Morley was fined eleven thouſand pounds for quarrelling in the court of Whitehall with Sir George Theobalds, one of the King's ſervants. Laud gave his vote that this cenſure ſhould be twenty thouſand pounds.

One Maud was fined five thouſand pounds, for ſaying that he heard the King went to maſs with the queen. Pickering, for ſaying the King was a Papiſt in his heart, was deeply fined, ſet in the pillory in two ſeveral places, and loſt both his ears.

One Greenville was fined four thouſand pounds, and to pay four thouſand pounds damages, for ſaying that the earl of Suffolk was a baſe lord.

Sir Richard Wiſeman, for ſome offences of the ſame kind againſt the lord-keeper, was deeply fined, both to the King and to that lord, was ſet in the pillory, and degraded from his rank of a baronet.

One Bennet was fined one thouſand pounds to the King, and one thouſand to the earl of Marlborough, for ſaying that the ſaid earl had dealt baſely with him, in not paying him thirty pounds which were due upon bond. *Strafford's Letters*, vol. I. p. 335, vol. II. p. 128, 180. *Ruſhworth*, vol. II. p. 269. vol. III. *Appendix*.

* On the authority of ſome old ſtatutes, which had been repealed in the twenty-firſt of James, againſt depopulations, or the converting arable lands into paſture, Sir Antony Roper was fined four thouſand pounds. This ſevere illegal ſentence terrified others into compoſitions, which brought in a large ſum. Like compoſitions, or heavy fines, were exacted for encroachments on the King's foreſt, the limits of which, by parliamentary decrees, had been eſteemed arbitrary

Anno 1631. iſſued to inform the public, that his majeſty had renewed a commiſſion to ſome lords, judges, and council learned, to ſell, grant, and confirm to them, all poſſeſſions to which their titles were any way defective, by making ſuch compoſitions as the ſaid commiſſioners ſhould approve and accept. Letters were ſent to the juſtices and barons of the Exchequer, to frame orders for an office of receiver and collector of fines and forfeitures erected by the late King, and confirmed by the preſent. On the meeting of the judges, they concluded that the patents for this office were againſt law and the King's profit. Nor was the behavior of the judges of Weſtminſter-Hall ſo condeſcending as it had been *: They ſtrenu-

Rym. Fœd. vol. XIX. p. 168.

trary and unjuſt: They were now extended much beyond the uſual bounds. The foreſt of Rockingham was increaſed from ſix miles to ſixty; and the encroachers were fined, the earl of Saliſbury twenty thouſand pounds, the earl of Weſtmoreland nineteen thouſand pounds, Sir Chriſtopher Hatton twelve thouſand pounds, Sir Lewis Watſon four thouſand pounds, lord Newport three thouſand pounds, Sir Robert Banniſter three thouſand pounds, with many other leſs fines.

The foreſt buſineſs was ſo highly reſented, that many hundreds of the ordinary ſort underwent heavy fines for reſiſting thoſe who encloſed for his majeſty's uſe, according to the new claim.

On the authority of a ſtatute of the 31 Eliz. a commiſſion was executed againſt poor cottagers who had not four acres of ground laid to their houſes. This was even more burthenſome to the poor than the tax of ſhip-money. *Strafford's Letters*, vol. I. p. 335. 337. vol. II. p. 117. *Ruſhworth*, vol. III. *Appendix*.

* Sir Giles Arlington was queſtioned by the High-commiſſioners for having married his niece: he pleaded, that it was not within the Levitical interdict; and brought the affair into the Common-Pleas. The court of Common-Pleas granted two rules; one requiring the High-commiſſioners to ſhew cauſe why a prohibition ſhould not be granted, and the other intimating, that if they proceeded a prohibition ſhould follow. Charles ſeverely chid the judges for this encroachment, as he termed it. On Laud's proteſting, that

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ouſly refuſed to comply with the royal commands not to grant any more prohibitions againſt the Prerogative-court, of which Sir Henry Martin was judge*. Anno 1631.

he would excommunicate them in his dioceſe, and denounce it himſelf at St. Paul's, if the archbiſhop of Canterbury did not do it in his province, they deſiſted. Sir Giles was forced to ſubmit to the High-commiſſion court: He was ſentenced to pay a fine of twelve thouſand pounds to the King, to give twenty thouſand pounds ſecurity never to cohabit with his niece, and to be impriſoned, or give ſufficient bail, till himſelf and bride had done penance at St. Paul's Croſs, and St. Mary's Church in Cambridge.

* This command was in compliance with the dictates of a paper preſented by biſhop Laud to the King, entitled, Conſiderations for the better ſettling the church government.

The nation was kept in continual alarm by the viſible advances Charles and his favorite Laud were daily making towards the overthow of the conſtitution. Some time before this, a paper had been handed about, entitled, A Propoſition for his Majeſty's Service, to bridle the Impertinence of Parliaments. It conſiſted of two parts; the firſt was to ſubdue the power of parliaments, and the other for increaſing the royal revenue. The reader may ſee the propoſal at large in *Ruſhworth*, vol. I. *Appendix*, p. 12, *&c ſeq.* Many of the particulars have, to the misfortune of this country, been ſucceſsfully and ſubſtantially carried into execution by the miniſters who ſucceeded theſe times. They were but too congruous to the practices of Charles, to his arbitrary levies of money, to his declarations againſt parliaments, his infringment of their privileges, and avowed reſolution not to acquieſce in their determinations. When they were communicated to the public, they ſet the nation into ſuch a flame, that the court found it neceſſary to endeavor to vindicate themſelves. The earl of Bedford, the earl of Somerſet, the earl of Clare, Sir Robert Cotton, Mr. Selden, and Mr. St. John, were committed to priſon, and proſecuted in the Star-chamber, for being the authors and publiſhers of the libel. In the courſe of the trial it appeared, on the oath of Sir David Fowlis, that the ſcheme had been written ſome time ago by Sir Rob. Dudley, a diſcontented Papiſt reſiding in Tuſcany, who, in right of his grandfather, had taken upon himſelf the title of duke of Northumberland. This ſcheme he had ſent to James, on the differences between him and his parliament; "concluding, as the ingenious Mr. Walpole

Anno 1631. Whilſt England, in regard to foreign affairs, enjoyed a perfect calm, whilſt its ſubjects were totally engaged in making feeble defences againſt the vigorous attacks of the crown and hierarchy, Germany exhibited an active ſcene of a different nature. The authority the houſe of Auſtria had gained in that continent threatened the entire ſubverſion of the free conſtitution of the empire; and was become ſo formidable to the neighboring potentates, that the houſe of Bourbon began to enter into deep and ſerious ſchemes for abating the

Affairs of Germany.

pole, in his Catalogue of Royal and Noble Authors, ſuppoſes, no method ſo eaſy or ſure of recovering his own right, as to inſtruct the King how to uſurp upon the rights of his ſubjects." Sir Robert Peyton avers, that the written project was taken out of the King's cabinet by a ſervant of the houſhold, and carried to Carr earl of Somerſet, who ſhewed it to the earl of Clare, Mr. St. John, and Mr. Selden.

The defendants denied their having any concern in the publication, and pleaded that they ought not to be queſtioned for it, being written in the time of king James, and not in reference to his majeſty's government, which they had not the leaſt thought or intention to ſcandalize.

Before the determination of the cauſe, Charles ſent a meſſage to the court to ſtop farther proceedings againſt the defendants, on account of the queen's being brought to-bed of a ſon: this happened on the twenty-ninth of May, 1630. The King rode with extraordinary pomp to St. Paul's, to give God thanks for the public bleſſing. A ſtar happening at the ſame time to appear in a clear ſky, the court-flatterers inſiſted much on the incident; medals were ſtruck in honor of the prince's nativity, repreſenting the ſtar at his birth, and the following motto: *Hactenus Anglorum nulli.* Monarchical writers complain, that the people in general teſtified little joy on this occaſion: they rather mourned the increaſe of a family which had ſhewn themſelves ſuch enemies to the freedom of the conſtitution, and the birth of a prince who would ſuck in ſuperſtition with his milk, and from education and example imbibe thoſe principles of arrogance and tyranny which rendered his parents formidable to the peace of the kingdom. *Ruſhworth*, vol. II. p. 51, *& ſeq. Echard*, vol. II. p. 93. *Guthrie*, vol. III. p. 907, *& ſeq.*

growing

growing power of that rival family. The oppreſſion of the Proteſtants raged with an exceeding violence*: Ferdinand declared, that there ſhould be none but Catholic magiſtrates through all his hereditary dominions. In the circle of Suabia, orders were given that they ſhould be deprived of their poſſeſſions, and the Catholics reinſtated in the goods of the church. In conſequence of this mandate, the Proteſtant churches were ſhut up; the adminiſtration of the univerſity of Prague veſted in the hands of the Jeſuits; the paſtors of the reformed religion not only ordered to forbear the exerciſe of their faith, but to leave the country, and live in a perpetual baniſhment. The ſame ſeverities were exerciſed in the town of Halberſtadt. Wallenſtein, the general of the Imperialiſts, was inveſted with the dukedoms of Mecklenburg, and a declaration publiſhed by the emperor againſt the legal poſſeſſors, accuſing them of high-treaſon. The court of Vienna no longer diſſembled its deſigns to ſuppreſs the Proteſtant religion, extinguiſh the liberties of the empire, and render the Imperial crown hereditary in the houſe of Auſtria. Wallenſtein openly boaſted, that the electors would ſoon be reduced to the condition of Spaniſh grandees. An edict was publiſhed at Vienna, commanding the Proteſtants to reſtore, without loſs of time, the eccleſiaſtical benefices in their poſſeſſion, particularly the archbiſhoprics, biſhoprics, prelacies, hoſpitals, and all the other eſtates of the church, occupied by them ſince the treaty of Paſſaw in the year 1555.

Anno 1631.

Riſhworth, vol. II. p. 36. & ſeq.

* The Proteſtant married women of Bohemia were perſecuted in an extraordinary manner. *Vide Harte's Life of Guſtavus Adolphus*, 4to. 1759, vol. I. p. 121, *& ſeq.*

On

Anno 1631. On this momentous occaſion, the eyes of all men were fixed on Guſtavus Adolphus, king of Sweden, whoſe warlike genius had rendered him the moſt diſtinguiſhed monarch of that or any other age. He was at this time engaged in a war with the king of Poland. The kings of England and France joined their good offices to mediate a peace *, in hopes of engaging Guſtavus to undertake the defence of the liberties of Europe. From the perſuaſions of theſe princes, and the invitations of the German Proteſtants, Guſtavus undertook the invaſion of that country. The king of England agreed to furniſh him with ſix thouſand men; but, that he might preſerve the appearance of neutrality, they were levied in the marquis of Hamilton's name.

During theſe ſecret negociations, the emperor convoked a diet at Ratiſbon, in order to prevail with the princes to elect his ſon king of the Romans. He had already inveſted him with the kingdom of Hungary and the crown of Bohemia, which he now conſidered as an indefeaſible inheritance of the houſe of Auſtria. Ferdinand endeavored to vindicate himſelf from being the author of a war which had ſo long ravaged the empire, and laid the whole blame on the princes of the Evangelical league, but particularly on the Palſgrave. He propoſed to the diet, to paſs an act that he ſhould continue a baniſhed man, and that the princes there aſſembled ſhould never entertain peace or amity with him. He then excuſed himſelf concerning his ſeizing the duchy of Mantua on the death of its prince, pretending that it was only to maintain the authority of the

Ruſhworth, vol. II. p. 64, & ſeq.

* A truce was agreed on for ſix years between Sweden and Poland. *Ruſhworth*, vol. II. p. 35.

empire

empire in Italy. He propoſed, that if a treaty then on foot, touching a difference between him and the king of Sweden, did not ſucceed, that the princes of the empire ſhould provide money for maintaining a ſtanding army; that they ſhould take meaſures to reſtore martial diſcipline, to eſtabliſh proper regulation for the quarters and paſſages of ſoldiers; and that the king of Sweden ſhould be threatened with the whole power of the empire. In anſwer to theſe propoſals, the princes electors laid open the grievances of the empire. The elector of Saxony, protector of the Augſburg Confeſſion, preſſed him to repeal his edict, reſtore the city of Augſburg to the fruition of its ancient liberty, and compel his officers to refund the contributions they had levied in almoſt all the provinces of the empire. His old ally, the elector of Bavaria, dreading the conſequence of his growing greatneſs, had privately ſolicited cardinal Richlieu to undertake the defence of the liberties of the empire; and now declared, that the deliberations of that aſſembly could not be free whilſt the emperor had an army of one hundred and fifty thouſand men at his devotion. The greateſt part of the Catholic princes exhorted him to divert the Proteſtants from an union with the king of Sweden, by granting to them, for a term of forty years, the enjoyment of the eccleſiaſtical benefices they had poſſeſſed ſince the treaty of Paſſaw. Farther they gave him to underſtand, that as a previous ſtep towards the accompliſhment of his ſon's election, it would be neceſſary to diſband the greateſt part of his troops, and take the command of his army from Wallenſtein, to whoſe large commiſſion, given without their conſent, they attributed great part of the outrages and injuries they had ſuffered during Anno 1631.

Anno 1631. during the courſe of the war. Ferdinand yielded to theſe remonſtrances, diſmiſſed Wallenſtein from his ſervice, obliged him to reſign the inveſtiture of the duchy of Mecklenburg, and retained, of all his army, but forty thouſand troops.

On the meeting of this diet, Charles gave orders to Sir Robert Anſtruther, his reſident at the court of Denmark, to apply to the emperor in favor of the reſtitution of the elector-palatine to his dignity and patrimony. The ambaſſador pleaded, that nothing could affect his maſter more than the conſideration of the daily calamities undergone by his brother-in-law, the prince elector, his wife and children; that no place was more expedient to treat of peace, reconciliation, and re-eſtabliſhment, than in the diet: therefore he made it his ardent requeſt to his Imperial majeſty, that having regard to the many interceſſions of his late father, and other kings and princes, he would remit the diſpleaſure conceived againſt his brother, and recal the proſcription iſſued out againſt him. True it was his brother had offended, and was inexcuſably guilty, unleſs the raſhneſs and precipitation of youth might ſomewhat plead for him; but others had been as culpable, whom yet his Imperial majeſty had received into favor; and would he be pleaſed to extend to him the ſame clemency, it would oblige his maſter to demonſtrations of the greateſt gratitude, and raiſe a glorious emulation in others to imitate ſo excellent a pattern; that the Palſgrave would entertain his favor with a heart ſo firmly devoted to his ſervice, ſo as all the intentions of his ſpirit ſhould be diſpoſed to compenſation and reparation of his former miſcarriages; that his majeſty of Great Britain held nothing ſo dear as the affection of his

Imperial

Imperial majeſty, and eſtabliſhment of a durable peace between them; and as upon all occaſions he had been forward to repreſent himſelf ſolicitous for it, ſo at this time he was ready to give more ample teſtimony, if his Imperial majeſty was pleaſed to incline to a treaty. The anſwer returned to this humble interceſſion was, that if the prince would aſk pardon, renounce the crown of Bohemia for ever, and his own electorate for himſelf and his heirs, and enter into no farther intrigues, either with German princes or foreigners; on theſe conditions he promiſed, from motives of bounty and clemency, to reſtore to him part of a province, and allow him a penſion. Frederic rejected theſe propoſals with ſpirit, notwithſtanding the king of England had given Anſtruther powers to become reſponſible for his ſubmiſſion. Charles was ſo amuſed with the emperor's propoſals, that it prevented him from entering into an avowed alliance with the king of Sweden, though he had taken ſome pains to bring that prince into Germany. Anno 1631.

The Proteſtant princes, after the breaking-up of the diet, obtained leave to hold one for themſelves at Leipſick, on pretence of concerting meaſures for an accommodation with the emperor touching the edict of reſtitution. The deliberations of this aſſembly turned upon the grievances of the empire. They unanimouſly reſolved to levy an army of forty thouſand men, and to form a ſtanding council. They ſent a declaration to the emperor, importing, that notwithſtanding their reſolution to raiſe troops, they ſhould be perfectly well diſpoſed to preſerve the peace, if the grievances they complained of were redreſſed. After the conference at Leipſick, all parties prepared for hoſtilities.

Anno 1631. On the landing of Guſtavus, he was immediately joined by the duke of Mecklenburg, and other Proteſtant princes. The Imperial troops were in a ſhort time driven out of the iſland of Pomerania; and from this period a continued ſeries of victory attended the arms of the Swediſh hero. In an important battle fought at Leipſick, the experienced general Tilly and his army of veterans were totally defeated, by the valor of the Swedes, and the conduct of their leader. The affairs of the houſe of Auſtria began to grow deſperate: Half of Germany was ſubdued by the victorious Swede; the duke of Saxony had made himſelf maſter of Bohemia; the landgrave of Heſſe had caſt himſelf on the ſide of the conqueror; and the duke of Bavaria was inclining towards the ſcale of ſucceſs. In this turn of fortune, the emperor had again recourſe to his old general Wallenſtein, whom he inceſſantly preſſed to reſume his command; at length Wallenſtein complied, and undertook to raiſe an army of eighty thouſand men, provided that during his ſervice he was ſole and abſolute, not to be commanded by the king of Hungary, the emperor's ſon, or directed by the councils of Vienna. This experienced officer ſoon changed the face of affairs: He recovered Egra, Prague, and all the kingdom of Bohemia. A battle was fought at Lutzen, between him and the Swediſh monarch, who periſhed in the midſt of the conteſt *. To the almoſt ſingular honor and reputation of his troops, they obtained a complete victory, notwithſtanding the loſs of their leader.

* Puffendorf, in his Hiſtory of the Swedes, ſays, that Guſtavus was killed by his ally, Francis-Albert duke of Lawenburg, who had been bribed by the Imperialiſts to commit this infamous act.

Some time after the battle of Lutzen, Wallenſtein, by the dictates of the treacherous councils at Vienna, was privately proſcribed by the emperor, and himſelf and four colonels under his command, who were particularly attached to his perſon, baſely murdered at Egra. The bloody deed was perpetrated by ſome Scotch and Iriſh officers, the Germans and Italians having refuſed to imbrue their hands in their general's blood. After his death the emperor ſeized on all his effects. Thus he rewarded the man who had ſacrificed every conſideration to his ſervice *, and by whoſe military endowments he had been enabled to tyrannize over Germany. Anno 1631. Harte's Life of Guſtavus Adolphus vol. II. p. 52.

By the ſagacity and conduct of that diſtinguiſhed politician Oxienſtern, who governed the affairs of Sweden during the minority of their young queen Chriſtina, the war was kept alive in Germany for ſeventeen years. The French contributed their aſſiſtance, and after the death of Guſtavus openly declared war againſt the houſe of Auſtria. Notwithſtanding a jealouſy and diviſion among the allies, a treaty of peace was concluded at Munſter, much to the advantage of France, Sweden, and the Proteſtant intereſt; and to the great weakening of the power of the Auſtrian family.

The unhappy elector-palatine, foiled in every attempt to re-eſtabliſh his broken fortune, had reaped no fruit from the uninterrupted ſeries of ſucceſs which had attended the king of Sweden. The manner in which the king of England had aſſiſted him, rather diſguſted than obliged this monarch. The Britiſh auxiliaries, commanded by Hamilton, in his own name, ſhewed Charles either

* Wallenſtein had been bred a Proteſtant.

Anno 1631. either afraid or aſhamed to eſpouſe the cauſe of Liberty, and had caſt a damp upon the Proteſtant intereſt. The States General refuſed to engage in the quarrel, unleſs the king of England would declare himſelf a contracting party; and the princes of Germany grew cold and reſerved. Guſtavus expoſtulated on this conduct, and required that the Britiſh monarch ſhould ſend over ten thouſand men, to be paid by himſelf as a party againſt the emperor: If this was agreed to, the marquis of Hamilton ſhould be general in chief, and no peace concluded with the emperor till the elector-palatine was reinſtated. Charles, inſtead of immediately cloſing with this advantageous propoſal, ſent over Sir Henry Vane to negociate a treaty *. He had been ſo long in determining the point, that Guſtavus told his ambaſſador, it was too late to enter into engagements for the reſtitution of the Palatinate: He could not ſtipulate to make war upon Bavaria for the preſent, having juſt concluded a treaty with the French, by which they were to furniſh him a yearly penſion of one million two hundred thouſand livres during the continuation of the league; he having, on his part, obliged himſelf to grant a neutrality to the duke of Bavaria: That his maſter had too long depended on the Spaniſh treaty, which was a fault had prejudiced the cauſe much. "If, added he, we had concluded before the arrival of the French ambaſſador, I could have attacked Bavaria, but I cannot undertake to war againſt

Ruſhworth, vol. II. p. 62.

Ruſhworth, vol. II. p. 131.

* Sir Thomas Roe, who had been ſome time agent at Guſtavus's court, was recalled, becauſe he ſhewed himſelf forward and zealous for Charles's contributing a powerful aſſiſtance. Sir Henry Vane was ſent in his place, as a man more inclined to peace, and whoſe opinions were more congruous to the king of England's councils.

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the houſe of Auſtria, France, and the Catholic league." He afterwards propoſed, that the king of England ſhould furniſh an addition of twelve thouſand men, and twenty-five thouſand pounds *per* month for their maintenance; that he ſhould engage to enter into a war with Spain, if Sweden was attacked from that quarter; and moreover, that the Lutheran religion ſhould be eſtabliſhed in the Palatinate. On theſe conditions, he ſaid, he would engage never to ſheath his ſword till the Palatinate ſhould be re-conquered, and delivered to its lawful poſſeſſor. Guſtavus moreover made it his requeſt, that Frederic ſhould repair immediately to the Swediſh army, and march with it into his own dominions. Theſe propoſals were in a manner rejected by Sir Henry Vane. Guſtavus, totally diſguſted with the politics of Charles, whom he had ſo often in vain preſſed with many arguments to furniſh an effectual aſſiſtance *; and, perhaps elated with that torrent of ſucceſs which had attended his arms, in a farther conference with the ambaſſador, talked in the following high terms concerning the reſtitution of the Palatinate. Anno 1631.

"That the Palſgrave ſhould hold his dominions as a donative of the king of Sweden: Ruſhworth, vol. II. p. 166.

"That he ſhould make no martial levies without the Swede's conſent:

* At the end of a letter he wrote to inform Charles of his victory at Leipſick, he ſays, "We doubt not but you will receive the news of this victory with affection and joy; that you will conſider the preſent opportunity as a circumſtance not to be neglected, directing your whole attention to this ſingle object, and making it your royal care to advance the good of the Chriſtian world, and promote the welfare of your own relations, by aſſiſtances in men and money, and by magnanimous reſolutions." *Harte's Life of Guſtavus*, vol. I. p. 412, *& ſeq.*

Anno 1631. "That during this war he ſhould furniſh the Swede with ſo many thouſand men upon his own pay:

"That two of his chiefeſt towns ſhould ſtand cautionaries for the performing covenants:

"That he ſhould make no league nor article with any other prince, without the Swede's conſent."

Memoirs of the duke of Hamilton, fol. ed. 1677, p. 21. Harte's Life of Guſtavus, vol. I. p. 357, & ſeq.

Sir Henry Vane propoſed, on the part of the king of England, that Hamilton ſhould have the complement of Swediſh ſoldiers which had been firſt ſtipulated to him; that they ſhould be paid with Engliſh money, and augmented with a body of troops from Great-Britain, which ſhould make a large army, to be led by Hamilton into the Palatinate. Guſtavus, who was now determined not to admit Charles but in the quality of a ſubordinate ally, rejected the propoſal with diſdain, and ordered the negociations to be broke off. Sir Henry Vane and the marquis of Hamilton were recalled. What remained of the Engliſh troops, reduced to two regiments, were left behind, and continued to ſerve the king of Sweden.

Hamilton, by the concurrence of unfortunate accidents, had gained neither honor to the Britiſh arms, nor advantage to the king of Bohemia. On his interview with the king of Sweden, immediately before the battle of Leipſick, it was determined that he ſhould guard Cuſtrin, Frankfort, Lauſberg, and the other paſſages on the Oder, that if a battle was loſt the Swedes might make a ſafe retreat. On his arrival at Frankfort, the plague carried off one third of his army. After the battle of Leipſick, he was ordered to march into Sileſia, with a reinforcement of two hundred horſe, and three hundred foot. He relieved Croſſen, ſurprized Guben, and was preparing

paring to attack Glogaw, when he received diſ- Anno 1631.
patches from the king of Sweden, informing him, that the elector of Saxony had undertaken the conqueſt of Sileſia. Hamilton was commanded to march back again, through the ſame deſolated countries he had left in Lower Saxony, in order to beſiege Magdeburg *, a well-fortified town, which had three thouſand men in garriſon. His army conſiſted of his Britiſh troops, now diminiſhed to fifteen hundred men, three thouſand German foot, and one thouſand Swediſh horſe. Guſtavus ſent him a reinforcement under general Bannier, which increaſed the number of his forces to ſeven thouſand men. Magdeburg, after having been reduced to great difficulties, was upon the point of capitulating, when the garriſon was unexpectedly relieved with a recruit of thirteen Anno 1632.
hundred men; and Pappenheim, with a body of Imperial forces, was coming to its aſſiſtance. Hamilton ſtrenuouſly inſiſted on fighting the enemy: Bannier differed in opinion, and produced a commiſſion from Guſtavus, appointing him general of the Swedes and Dutch in that army, together with orders not to hazard an engagement. Hamilton was forced to ſubmit, and to draw off his troops from the town. Pappenheim carried off the garriſon of Magdeburg, with all the rich effects which Tilly had brought together from the plunder of his victories. On his retreat, Hamilton took poſſeſſion of Magdeburg. After this expedition, he got ſo little aſſiſtance from the king of Sweden, who was determined

* This place had been taken the year before by Tilly. The Imperialiſts committed execrable cruelties: The whole city was reduced to aſhes, except the cathedral, and a few fiſhing huts on the banks of the Elbe. Above thirty thouſand of the inhabitants periſhed in the carnage.

Anno 1632. not to indulge him with an independant command, that he was obliged to incorporate his remaining forces into the German troops; whilſt he himſelf, till he was recalled, ſerved as a volunteer under Guſtavus *.

* This German expedition of Hamilton, which turned out ſo indifferently, had ſubjected him to a whimſical accuſation of treaſon. From motives of reſentment, either on the ſuſpicious death of his father, whom, it was vulgarly noiſed, died by poiſon, or from hatred to Buckingham on another ſubject—the being forced to marry his niece by the counteſs of Denbigh—he had retired from court. In this private way of life he continued from the laſt year of James's reign till the death of Buckingham, when, by the repeated ſolicitations of Charles, he accepted the place of maſter of the horſe, gentleman of the bed-chamber, and was made privy-counſellor of the kingdoms of Scotland and England. Soon after this, by the advice and direction of Charles, he entered into the forementioned engagements with the king of Sweden, for the levy of the ſtipulated contingency. Charles not only furniſhed him with a large ſum of money, but granted him a leaſe of the cuſtoms of the wines in Scotland for ſixteen years. Theſe and other extraordinary marks of royal favor raiſed ſo much envy among the creatures of the court, that one Ramſey, a man employed by Hamilton in the buſineſs of levying ſoldiers, having talked to the lord Reay, a general officer in the Swediſh ſervice, in a looſe unguarded manner concerning the tyrannical conduct of the Britiſh miniſtry towards the Puritans, with other expreſſions of diſtaſte to the government, Reay pretended Ramſey had acquainted him, that the levies which were going on under the marquis of Hamilton were to be employed in aſſerting his claim to the crown of Scotland; that he was to be joined by the earls of Haddington, Roxburgh, and Buccleugh, who were to ſurprize the forts, impriſon the royal family, and ſtrike off the heads of the chief miniſters, both in Scotland and England. This the lord Reay carried to the lord Ochiltree, the lord Ochiltree to Weſton the high-treaſurer, who magnified it in ſuch a manner to the King, as to allege a probability that the marquis, if admitted into the King's bed-chamber, might murder him. Charles, who was not apt to entertain ſuſpicions againſt his favorites, treated the matter ſlightly, admitted Hamilton to his preſence, and diſcloſed to him in a very friendly manner the accuſation which had been charged againſt

Thus Charles loſt a fair opportunity of ſharing the glories and the conqueſts of the king of Sweden, that prince having offered to wage war till the reſtitution of the Palatinate, if he would have avowed himſelf a party againſt the houſe of Auſtria. Unhappily for Charles, his ambition was entirely confined to the making himſelf deſpotic at home. Had he avoided all diſſentions with his own ſubjects, he might, at this period, have rendered very important ſervices to the Proteſtant cauſe, and not only have reinſtated his brother-in-law in his former poſſeſſions, but added to them ſome of the Imperial ſpoils. The unfortunate Palſgrave, after a long ſeries of diſappointments, died at Mentz, a few months af- Anno 1632.

againſt him. The marquis deſired to be immediately tried, and offered himſelf to reſtraint till he was cleared. To this the King would not conſent; and, as a farther mark of an extraordinary confidence, commanded him to lie in the bedchamber that night. When Ramſey was called upon, he abſolutely denied the converſation with which he was charged by Reay. There being no proof on either ſide, and the King being fond of every thing which was pompous, conſented they ſhould be permitted to clear themſelves in the antient way of combat. A court of chivalry was erected, and Robert earl of Lindſey made, for the occaſion, conſtable of England. The whole proceedings of the trial, the petitions and anſwers, with all the farcical ſolemnities uſed by this court, are entertaining: they may be found at length in Ruſhworth; but are too long, and of too trivial a nature, to be inſerted here. A day was awarded for the combat. The champions mounted the ſtage * in rich dreſſes: When the combatants were going to engage, the King's order interpoſed, and the buſineſs was ſtayed. A revocation of their letters-patent for trying this cauſe was brought to the lord-conſtable and marſhal, and thus the affair ended. The lord Ochiltree was carried to Scotland, and after a trial for the part he had acted, he was condemned to perpetual impriſonment. *Burnet's Memoirs of the Duke of Hamilton*, p. 7. 10. 21, & *ſeq.* *Ruſhworth*, vol. II. p. 112, & *ſeq.* *Guthrie*, vol. III. p. 910, & *ſeq.*

* Tothill-fields.

ter

Anno 1632. ter the battle of Lutzen. He followed Guſtavus's fortunes, and had ſo great a reliance on his honor, as to depend on being reſtored to his territories by his means: He was ſo ſanguine in this notion as to tell both Vane and Hamilton, that he believed he ſhould ſpend his Chriſtmas at Heidleberg, his capital. Nor was it without reaſon he relied on the honor of this illuſtrious prince: Guſtavus had ever ſhewn himſelf ſincere in all his profeſſions, and open and candid in all his treaties. It is true he would not bind himſelf in any formal engagement with the king of England for the reſtitution of the Palatinate, becauſe that monarch had continually refuſed to bear any part of the expence or hazard; but Guſtavus, in a converſation with Vane, declared, that though he was tender of promiſing one iota more than he could perform, yet he would at all events diſcharge the duties of a man of honor, and reſerve to himſelf the glory of executing more than he had promiſed. He ſolicited ſtrongly the French king to co-operate with him in reſtoring the Palatine; and alleged, that his anceſtors had ſupported Henry IV. againſt the enemies of the houſe of Bourbon. He afterwards took Frederic under his immediate protection, when the king of England had relinquiſhed his intereſt, and gave him as magnificent a reception as if he had been in poſſeſſion of the crown of Bohemia. The news of Guſtavus's death was ſuch an affliction to this unfortunate prince, that it at once put an end to his hopes and his life. After his deceaſe, Charles invited the queen of Bohemia, with her family, to reſide at his court: She excuſed herſelf on the account of her great grief, which rendered her incapable of taking a long journey. Some time before this, Sir Henry

Harte's Life of Guſtavus Adolphus, vol. II. p. 108.

Vane

Vane had been inſtructed to ſet before her, in the ſtrongeſt colors, the expediency of permitting her eldeſt ſon to be bred a Papiſt in the court of Vienna, with a view to match him with one of the daughters of the houſe of Auſtria. To this propoſal, it is ſaid, the queen made the following reſolute reply: "That rather than be guilty of ſo irreligious and mean a condeſcenſion, ſhe would be her ſon's executioner." Anno 1632.

Beſides the auxiliaries which Charles had ſent into Germany, he gave the emperor of Muſcovy leave to raiſe a regiment of two thouſand men, to be employed againſt the Poles. The emperor's deſign was againſt Smolenſko. Whilſt diſpoſitions were making for the attack, Sanderſon, the commander of the Britiſh troops, was murdered in the trenches by one Leſley *, a Scotchman. The Poles taking advantage of the diſtraction which this accident occaſioned, fell upon the enemy, and put them to a total rout. The Muſcovite was conſtrained to accept of a peace upon very diſhonourable terms †. Ruſhworth, vol. II. p. 184, & ſeq.

To return to the affairs of England: Charles and his prime miniſter, Laud, continued to indulge themſelves in the exerciſe of an unlimited power. Proclamations ſupplied the defects of Proclamations.

* Leſley was ſent over a priſoner into England, but eſcaped juſtice becauſe he could not be tried for a murder committed in a foreign country. He returned to Muſcovy, where, for ſuſpicion of treaſon, he was thrown from the top of a tower on ſharp ſpikes; and in that torture endured a lingering death. *Ruſhworth*, vol. II. p. 185.

† After the Ruſſian general returned home, he had his head cut off. His ſon, the lieutenant-general, was whipped to death, and his family baniſhed into the country of Siberia, there to catch ſables for the emperor's profit. *Ruſhworth*, vol. II. p. 185.

law,

Anno 1633. law *, and the High-commiſſion court perſecuted as Puritans all who refuſed to ſubmit to deſpotic

* All things relative to the civil government of the country were ſettled by proclamations. The unbounded power the King exerciſed in this particular, was in effect that of taxation. The ſale of tobacco was reſtrained by proclamation: this produced from all the towns and villages in England a certain price for a licence to ſell the prohibited drug; and a conſiderable revenue was extorted from the ſubject.

The lord-treaſurer Portland had inſiſted with the vintners, that they ſhould ſubmit to a tax of a penny per quart upon all the wine which they retailed. On their refuſal, a decree was made in the Star-chamber, forbidding them to ſell or dreſs victuals in their houſes. To compound this matter, they were obliged to give the King ſix thouſand pounds, and ſubmit to pay half the duty which was demanded of them. After this the vintners, for a rent of thirty thouſand pounds per year to the King, obtained a licence to raiſe wines one penny and two pence per quart more than they were uſually ſold at.

A proclamation declared, that no hackney coaches ſhould be ſuffered, and that no perſon ſhould go in any kind of coach in the ſtreets of London and Weſtminſter, except the owner of the coach conſtantly kept four able horſes fit for his majeſty's ſervice whenſoever his majeſty's occaſions ſhould require, upon pain of his majeſty's high diſpleaſure and indignation, and ſuch pains and penalties as might be inflicted for the contempt of his majeſty's royal commands.

Commiſſioners were appointed to make a certificate to the council-board, or in the court of Star-chamber, of thoſe who, contrary to former proclamations, had enlarged the city of London by new buildings, or had divided houſes into ſeveral dwellings: five hundred pounds and two thouſand pounds fines were ſet on thoſe tranſgreſſors againſt the letter of the proclamations, though they had taken the precaution to procure licences.

Ray, having tranſported fullers-earth, contrary to a proclamation, was fined in the Star-chamber two thouſand pounds, and ſet in the pillory. Like fines were levied on Terry, Eman, and others, for diſobeying one which forbad the exportation of gold.

Lords, gentlemen, clergymen and others, whoſe ſtay in London was not abſolutely neceſſary, were ordered to reſide in their reſpective counties. An information was lodged in the Star-chamber againſt ſeveral hundreds of people of quality and fortune, for that they had unlawfully agreed together how

government. This drove many who were well affected to the Church of England into the neceſſity of ſiding with that party, to enable them to oppoſe the arbitrary meaſures of the court; and Puritaniſm, notwithſtanding the endeavors of the church and King, daily gained ground. The Preſbyterians, to ſtrengthen themſelves againſt the deſigns of their enemies, had entered into a project to ſet up ſtipendiary lectures in ſeveral market-towns, and had raiſed a ſtock to buy in ſuch impropriations as were remaining in the hands of the laity. A ſociety was eſtabliſhed, under the title of Feoffees for buying-in impropriations to be beſtowed on preaching miniſters. Twelve popular and religious men were erected into a kind of corporation to manage this buſineſs; and the ſcheme received ſo much encouragement and applauſe, that the jealouſy of Laud was at length rouſed. The feoffees were proſecuted by Noy, the attorney-general in the court of Exchequer, Anno 1633.

how they might withſtand his majeſty's proclamation, and royal pleaſure therein expreſſed.

An order was ſent to the juſtices of the peace to preſent all noblemen, who had not particular leave of the King, who ſhould be found in town; and to impriſon all gentlemen. This was inflicted on one Palmer, who was committed to the Fleet, and fined one thouſand pounds.

There were more reaſons than one for prohibiting people of fortune to reſort to town: The oppreſſions of the times were become, in every ſocial meeting, the univerſal topic of converſation.

All the ſubjects likewiſe were forbid to depart the realm, without licence from the King, or ſix of his privy-counſellors.

There had been many of theſe kinds of proclamations in the laſt reign. This was ſo far from being an acknowledged prerogative of the crown, that by a temporary act of parliament it was granted to Henry VIII. with a ſaving the lives and properties of the ſubject. The act was repealed in Edward VI.'s time *Rymer. Strafford's Letters. Ruſhworth*, vol. III. *Appendix*, p. 51.

under

Anno 1633. under pretence that they uſurped upon the King's regality. The feoffment was condemned; the impropriations purchaſed confiſcated to the King's uſe; and the merits of the cauſe referred to a farther cenſure in the Star-chamber. New formalities were continually ſuggeſted by Laud, and approved by the King: A form of divine ſervice was introduced in the ſuperſtitious, whimſical ceremony of performing the cure of ſcrophulous diſeaſes by the royal touch. With theſe fantaſtical novelties, more important encroachments marked the potent influence of this arrogant prelate. The following queſtions were propoſed to the judges concerning the liberties and exemptions of the clergy: "Whether clergymen were bound to find watch and ward day or night? whether clergymen might be compelled to take apprentices by the ſtatutes of the poor?" To the firſt of theſe interrogatories the judges did not think fit to give a poſitive anſwer, but deſired leave to inform themſelves of the practice of the ſeveral counties of England. To the ſecond they agreed, that no man was expreſly out of the ſtatute; but there was a diſcretion in that point to be uſed by the juſtices of the peace.

Complete Hiſt. of England, vol. III. p. 60.

Acts of power.

Among the exertions of abſolute ſovereignty recorded in the tranſactions of this reign, there is one of an enormous nature, unnoticed by hiſtorians. A commiſſion was granted to the archbiſhop of Canterbury, and the other members of the privy-council, for regulating the juriſdiction of the courts of juſtice. Theſe commiſſioners were to examine all queſtions, controverſies, and debates, ariſing about the juriſdiction of the courts eccleſiaſtical and civil. They were conſtituted with powers to call before them, as often as they choſe, any of the judges of the ſaid courts, or parties

Rym. Fœd. vol. XIX. p. 280, & ſeq.

parties contending; to examine upon oath the officers and clerks; to hear and debate the questions and causes; to consider and advise on the subject; and then to lay before the King the said considerations, that he might determine by his authority the matter in dispute *. Anno 1633.

The earl of Warwick, taking no notice of a commission of this sort, which had been given to determine on appeals from the court of Admiralty, appealed, on a judgment of this court, to the court of Chancery. This produced an order, that the earl of Warwick's cause should be heard and judged by the commissioners who had been appointed by the crown for the purpose of determining on the aforelaid appeals. Rym. Fœd. vol. XIX. p. 300.

CHAP. III.

The King's journey to Scotland.——Transactions there.——Death of Abbot.——Advancement of Laud.——His schemes and arbitrary proceedings.——Prosecution of Prynne.——Wentworth's behavior as president of the council of York, and deputy of Ireland.——Affairs of that country.——Project of ship-money.——Death of Sir Edward Coke.——Scheme of a reconciliation with the church of Rome.——Impositions.

CHARLES had ruled England four years despotically; that is, had exercised by his single authority every act of legislation. He had not only usurped the power of raising money with-

* In the preamble to this extraordinary commission the King asserts, that the sovereignty of justice was entirely in him by virtue of his kingly office; that for the ease and benefit of the subject it was dispensed and limited to other persons and courts, according to such orders as have been approved and established

Anno 1633. out conſent of the people; cancelled the right of property in the buſineſs of the feoffees; impoſed, by the judgment of his Star-chamber, rigorous and arbitrary penalties on offences not legally puniſhable: He had not only diſpenſed with confirmed ſtatutes, but his proclamations were conſidered by the miniſtry as ſo many new ones; the breach of which was as ſeverely puniſhed as was the breach of the eſtabliſhed laws of the realm. Notwithſtanding an uſurpation ſo violent and unnatural, the people, who have a kind of dread and reverence for eſtabliſhed power, though unſupported by an adequate force, and being deprived of the protection of their repreſentatives in parliament, legally inveſted with authority to oppoſe openly and boldly the uſurpations of the crown, had in a manner ſeemingly ſubmitted to the yoke of ſervitude. Though diſcontent ſat viſible on the public brow, yet there was no likelihood of its ripening into a civil commotion. Charles had not only freed himſelf from the expence of war, but had recruited his coffers with the pillage of his people. The venal tribe which ſurrounded him flattered him on the proſpect of his affairs, on his principles of government; and inſtilled into him the pernicious notion, that though ſome turbulent individuals might complain, yet the people in general found themſelves eaſy and happy under his adminiſtration. In this ſunſhine of his fortune, he undertook a journey to his kingdom of Scotland. Two important objects, beſides the ſingular plea-

ed by antient cuſtom and law, or as the King had, or ſhould think fit to direct and appoint: "Which power, ſays the preamble, is not only our undoubted and hereditary right by our royal prerogative, but alſo agreeable to the practice of our royal progenitors in this our kingdom, and to the equity and true intention of our laws."

ſure

ſure of a coronation, excited him to this expedition: to get money of a parliament, and to reduce the kirk of Scotland to a perfect conformity to his plan of church-government. In the year 1621, James, by the increaſe of the power he had gained on ſucceeding to the crown of England, found means to reſtore epiſcopacy in Scotland, and give to biſhops their ancient juriſdiction over the church. Charles was determined to render them powerful; and to this purpoſe entered into a deſign of reſuming all the church-lands which had been granted during his father's minority. He bought the abbey of Aberbroth, and the lordſhip of Glaſgow, from the families of Hamilton and Lenox, and added them to the two archbiſhoprics. Burnet relates, that in the third year of his reign, the earl of Nithſdale* was not only ſent down with a power to receive the ſurrender of thoſe who would willingly pay this extraordinary compliment, but to aſſure others, that the King would take rough courſes if they did not ſubmit their rights to his diſpoſal. The alarm which aroſe on the report of this intention occaſioned ſuch a heat, that Nithſdale was deterred from opening his inſtructions, and the attempt was retarded for ſome time.

Anno 1633.

Burnet's Hiſt. of his own Times, fol. ed. 1724, vol. I p. 20, & ſeq.

Charles, having hitherto carried things with an high and ſucceſsful hand in England, and, ſpurred on by the impatient Laud, who looked upon all moderation as a betraying the dignity of the church, now determined to attempt in his own perſon certain points neceſſary to eſtabliſh eccleſiaſtical matters on the true hierarchical principles in Scotland.

* The earl of Nithſdale had married a niece of the duke of Buckingham. He was at this time believed a Papiſt, and before his death profeſſed himſelf one. *Burnet*, vol. I. p. 20.

Anno 1633. The King's journey to Scotland. Ruſhworth, vol. II. p. 178, & ſeq.

The parade of majeſty was not neglected on this important occaſion. The King was attended by the prime of the Engliſh nobility, who vied with each other in the ſhew of equipage. The ſame abſurd emulation took place among the Scots. The creatures and dependents of the court feaſted the King ſo ſumptuouſly during his progreſs, that it is ſaid the earl of Newcaſtle expended on the occaſion ſeveral thouſand pounds. Though the journey was commenced May the thirteenth, it was not till the fifteenth of June that Charles reached Edinburgh. His entry and coronation were managed with ſuch profuſion, and ornamented with ſuch coſtly pageantry, that the whole country felt the importance of their viſitor. Laud, the director of the king's conſcience, was not forgotten: He was made a privy-counſellor of Scotland the very firſt day of the King's arrival at Edinburgh, and was ſo arrogantly officious at the ceremony of the coronation, that Lindſey, the archbiſhop of Glaſgow, through moderation having avoided the putting on the gaudy robes of his order*, Laud forcibly thruſt him from his place at the King's left-hand, and ſupplied it with Maxwell biſhop of Roſs, ſaying, "Are you a churchman, and want the coat of your order?" The whole conduct of the intended reformation was intruſted to this imprudent zealot, who acquired ſuch an influence over the Scotch biſhops, that they flung off their former moderation, and not only adopted his principles, but his violent meaſures. All the vacant church-preferments were filled up with his own creatures. Edinburgh was erected into an epiſcopal ſee; and one Forbes, whoſe religious

* The robes of his order were embroidered. *Ruſhworth*, vol. II. p. 182.

opinions

opinions were little ſhort of Popery, appointed the firſt biſhop. Anno 1633.

The parliament of Scotland was not only munificent in their grants to the King *, but complimented him with paſſing every act which he propoſed, two only excepted. The firſt was, the regal prerogative eſtabliſhed as it had been aſſerted by a ſtatute made in the year 1606: to this an addition was made of another act paſſed in the year 1609, giving the crown a power of preſcribing habits to eccleſiaſtics. The ſecond was a reſumption of thoſe church-lands and tythes which had been alienated in the minority of the former reign. The majority of the nobility and commoners who compoſed the parliament† agreed to all which the firſt act contained relating to the King's prerogative aſſerted in the ſtatute of 1606; but diſſented from his power of impoſing upon eccleſiaſtics their habits; and deſired that the acts might be divided. Charles, who was preſent at the debate, pulled out of his pocket a liſt of all the members who compoſed the houſe, and inſiſting that the two acts ſhould not be disjoined, added, "Gentlemen, I have all your names on this paper, and I will know who will do me ſervice, who will not, this day." Notwithſtanding the King's impetuoſity, the bill was rejected by the major part of the aſſembly; but the clerk of the regiſter, who gathered the votes, removed this difficulty by declaring that it was carried in the affirmative. The earl of Rothes aſ-

Tranſactions there.

Franklyn's Annals, p. 432, &ſeq. Guthrie's General Hiſt. of Eng. vol III. p. 919.

Ruſhworth, vol. II. p. 183. Burnet, vol. I. p. 21, & ſeq.

* Concerning the grant given by the parliament, Charles thus expreſſes himſelf: "He was pleaſed to accept of it as the mite of their humble affection, in teſtimony of their thankful gratitude for ſo great a bleſſing as the perſonal preſence of us, their ſacred lord and ſovereign. *State Trials*, vol. I. p. 409.

† The King, Nobility, and Commons ſit together, and make but one houſe.

Anno 1633. ſerted the contrary; but the King took up the matter, and inſiſted that the clerk of the regiſter's declaration ſhould be held good, unleſs the earl of Rothes would go to the bar, and accuſe him of falſifying a record of parliament *, which was puniſhable by death; and the earl of Rothes, if he had failed in the proof, was liable to the ſame penalty. He did not chuſe to venture on the dangerous accuſation, and the King carried his point. This outrage on the moſt important point of the conſtitution, in that ſolemn ſeat of juſtice the ſenate-houſe, in the face of the whole people aſſembled in their repreſentative body, made the nation conclude that all their liberties were ſubverted; that a parliament was become a piece of idle pageantry, ſince it was in the power of a corrupt individual, the clerk, to declare and determine the majority of votes. This was not the only inſtance which Charles ſhewed the Scots of his arbitrary, violent diſpoſition. Hague, who, though the King's ſolicitor, was zealous for the freedom of his country, drew up a paper, ſetting forth the public grievances, and particularly what related to the tranſactions in the laſt parliament. This was to be ſigned by the anti-miniſterial lords, and by them preſented to the King. The earl of Rothes, from a motive of court-complaiſance, gave it Charles to peruſe, before it was to be preſented in form. Charles, having read the paper, returned it, ſaying, "No more of this, my lord, I command you †." This

Biſhop Guthrie's Memoirs, 8vo. ed. 1702, p. 9, & ſeq.

* Burnet relates, that the King knew the bill was rejected by the majority, for he had called for a liſt of the members, and had marked every man's vote.

† The King at the ſame time rejected a petition, preſented to him by ſeveral miniſters, ſetting forth the diſorders and innovations which had crept into the church. *Ruſhworth*, vol. III. *Appendix*, p. 143.

autho-

authoritative expreſſion ſo intimidated the party, Anno 1633.
that they dropt the buſineſs. Balmerino ſuffered it to remain ſome time in the poſſeſſion of one Dunmoor, a lawyer: it fell into the archbiſhop of St. Andrew's hands, who carried it immediately to the king. Balmerino acknowledged, that he was in poſſeſſion of the original draught. There was a law in Scotland which made it high-treaſon to ſpread lies of the King or his government, commonly called *leaſeing-making*. This law was enforced by a ſtatute made in the late King's time; and the ſeverity of it increaſed by an addition, that it ſhould be likewiſe treaſon to know of any who did it, without ſpecifying the nature of thoſe lies. The words of the act were ſo general, that it was as bad as the *leſæ majeſtatis* among the enſlaved Romans; that engine with which Tiberius rooted up the remaining virtue in Rome. This law, which prevents all ſuggeſtions againſt an adminiſtration, however badly exerciſed, rendered the legal conſtitution of Scotland an abſolute tyranny, without other redreſs than from the native ſpirit of the people, which, when rouſed and provoked beyond the bounds of manly ſuffering, often had recourſe to natural juſtice, by aſſembling in bodies, and executing thoſe ſtateſmen, judges, or juries, from whom they had received injuries. Balmerino's offence was thought within the forementioned ſtatute: An order was ſent for his commitment, and a ſpecial commiſſion came down for his trial: He was proſecuted for high-treaſon, and condemned to die *. The malevolence of the proſecution,

* Charles let ſlip no opportunity of teaching his ſubjects their duty to majeſty; and in theſe documents he always ſuppoſes himſelf inveſted with abſolute ſovereignty. In his charge againſt Balmerino there is the following paſſage: "In

Anno 1633. and the injuſtice of the ſentence, were ſo highly reſented by the Scots, that they had aſſociated

ſo far as albeit by the law of God, and laws of all nations, the perſon of the ſupreme and ſovereign prince is and ought to be ſacred and inviolable, and he ought to be reverenced, honored, and feared, as God's lieutenant on earth; and that all ſubjects are bound and tied in conſcience to content themſelves in humble ſubmiſſion to obey and reverence the perſon, laws, and authority, of their ſupreme ſovereign." The whole charge is in ſo peculiar a ſtyle, that it is worth peruſal.

The ſubſtance of Burnet's account of Balmerino's trial is as follows. In Scotland there is a court for the trial of peers, diſtinct from the jury, who are to be fifteen, and the majority determine the verdict: the fact is only referred to the jury, the law is judged by the court. If the majority of the jury are peers, the reſt may be gentlemen. The earl of Traquair, the preſent lord-treaſurer, was thought the moſt capable man for buſineſs, and the beſt ſpeaker in the kingdom. He was charged with the lord Balmerino's trial. Hague owned himſelf the author of the petition, and withdrew into Holland. In the naming the judges, there appeared a deſign to have the lord Balmerino's life, for they were very weak or very poor. Much pains were taken to get a jury of the proper complection. It was long conſidered, on what the priſoner ſhould be tried: His hand interlining the paper, plainly ſoftening the matter, was not thought evidence that he drew it, or was acceſſary to it, and they had no other proof againſt him; nor could they from that infer that he was the divulger, ſince it appeared it was only ſhewn by him to a lawyer for counſel; ſo it was ſettled to inſiſt, that the paper tended to alienate the ſubject from their duty to the King, and that he, knowing who was the author, did not diſcover him. The lord Balmerino pleaded, that the ſtatute for diſcovery had never been put in execution; that it could never be meant but of matters which were notoriouſly ſeditious; that till the court judged ſo he did not take the paper to be of that nature, but conſidered it as full of duty, deſigned to ſet himſelf and ſome others right in the King's opinion; that he communicated the matter to the earl of Rothes, who told the King of the deſign; and that upon the King's ſaying he would receive no ſuch petition, it was quite laid aſide. A long debate had been much inſiſted on, whether the earl of Traquair, or the King's miniſters, might be of the jury or not? the court gave it in his favor. When they were ſhut up, Gordon of Bucky, who forty-three years before had aſſiſted in the murder of the earl

of

to execute juſtice after the old Scotch faſhion, and to cut in pieces the judges and the eight Anno 1633.

of Murray, and was thought on this occaſion to be a ſure man, excuſed his preſumption in being the firſt who broke ſilence, but deſired they would all conſider what they were about; it was a matter of blood, and they would feel the weight of it as long as they lived: he had in his youth been drawn in to ſhed blood, for which he had the King's pardon, but it coſt him more to obtain God's pardon; it had given him many ſorrowful hours, both day and night. As he ſpoke this, the tears ran down his face; a ſudden damp was ſtruck on the aſſembly: but the earl of Traquair taking up the argument, ſaid, they had it not before them whether the law was a hard law or not, nor had they the nature of that paper before them which was judged by the court to be leaſing-making; they were only to conſider whether the priſoner had diſcovered the contriver of that paper or not. Upon this, the earl of Lauderdale, who, though a profeſſed enemy to the lord Balmerino, took up the argument againſt what the earl of Traquair had urged, ſaid, that ſevere laws never executed were looked on only to terrify; that though after the court had judged the paper to be ſeditious, it would be capital to conceal the author, yet, before ſuch judgment, the thing could not be thought ſo evident that the party was bound to reveal it. On theſe heads the matter was debated many hours; but when it came to the vote, Balmerino was caſt by one. This occaſioned ſuch a general diſſatisfaction, that it was reſolved to force the priſon to ſet him at liberty; and if that failed, to revenge his death both on the court and the eight jurors. The earl of Traquair gave the King to underſtand, that the lord Balmerino's life was in his power, but that the execution was in no ſort adviſable, and thus procured his pardon. "My father, continues the author of this account, knew the whole ſteps of this matter, having been the earl of Lauderdale's moſt particular friend. He often told me, that the ruin of the King's affairs in Scotland was in a great meaſure owing to that proſecution.

The manner in which the lord Balmerino's life was put into the hands of the court, would ſingly be a ſufficient example of the importance of that privilege which the conſtitution of England gives to its ſubjects; viz. That the jury, compoſed of men of an equal condition with the perſon proſecuted, are judges as well of the law as the fact. This may be pronounced the great bulwark which defends the life, property, and perſonal freedom, of every Engliſh ſubject from the exorbitant

Anno 1633. jurors. Charles was on this account obliged to grant Balmerino a pardon.

Notwithſtanding the cordial reception the King had received from his countrymen, yet the averſion he had ſhewn to innovations in their religious worſhip, or to any extenſion of the royal prerogative, gave ſuch a diſtaſte, that immediately after the diſſolution of the parliament Charles poſted in all haſte out of Scotland. The non-conformiſts had been treated with ſo unfavorable an aſpect, that when the provoſts of Stirling and Linlithgow, each of them, preſented the King with a piece of plate, one of them, being a Preſbyterian, was not admitted to kiſs his hands. The nobility and gentry of Fife had propoſed a magnificent entertainment for him; but the greateſt part of them being Preſbyterians, he took another road to avoid accepting their intended civility.

Ruſhworth, vol. II. p. 383, & ſeq.

Whilſt the king was thus venting his diſguſt in theſe childiſh expreſſions of reſentment, Laud was appointed to preach in the royal chapel, which had been fitted up and ornamented according to his own directions, where he made violent declamations in favor of conformity to religious diſcipline and ceremonies. Charles, before he left Scotland, created the archbiſhop of St. Andrew's chancellor of the kingdom *, and

exertions of monarchical power. May this important conſideration have its due weight with the public! May no plauſible orations from a time-ſerving judge ſeduce an Engliſh jury to give up, on any occaſion, a right on which alone their own ſecurity, the ſecurity of their fellow-citizens, the ſecurity of their poſterity, ſo evidently depend! *State Trials*, vol. I. p. 407, *& ſeq.* *Burnet*, fol. ed. London, 1724, p. 22, *& ſeq.*

* This office had never been in the hands of a churchman, ſince the pope's authority had been ſuppreſſed in Scotland. *Clarendon*, vol. I. p. 67.

admitted

admitted ſeveral prelates to ſeats in the privy-council, and in the college of juſtice. Thus the Scots, could they have had any doubt of the King's inclination, were by this conduct thoroughly convinced that material alterations were intended in their church-government*. Anno 1633.

The firſt ſtep which he took on his return to England was to appoint Laud to the metropolitical dignity of the ſee of Canterbury. The death of the pious, learned, and moderate prelate, George Abbot, happened on the fourth of Auguſt, this year. He was ſingular for preſerving his honeſty, and ſome ſmall degree of dignity; though a courtier, was never exceſſively fond of power, or deſirous of carrying the prerogatives of the church to any extraordinary height; this prudent moderation drew upon him many malevolent reflections from ſeveral bigotted hiſtorians of his own time. Among theſe, Heylin, a creature of Laud, taxes him with want of benevolence, when nevertheleſs this good archbiſhop was eminent for a munificent hoſpitality †, and a well-di- Death of Abbot. His character. Biographia Britannica. fol. ed. 1747. vol. I. note, p. 16.

* The courtiers had been at great pains to have it believed in England, that thoſe Scots who had received favors from Charles and his father were men of the greateſt intereſt in their country; but the Engliſh who attended Charles in this journey, and who were willing to know the real ſtrength of his party, quickly perceived the falſhood of this ſuggeſtion. They ſaw the Scots in general behave with great contempt towards the royal favorites of their own nation; and that the men of weight were in an intereſt againſt the court. This produced the foundation of a correſpondence between the principal men of the two kingdoms. Charles appeared to be ſenſible of this; it was the occaſion of his quick return into England. *Guthrie*, vol. III. p. 909.

† He had been reproached by ſome of the high-church party for this virtue, that he lived too high, had too much company, and became thereby too popular. *Ruſhworth*, vol. I. p. 454.

rected

Anno 1633. rected charity. The true incentives to this, and other unjuſt and acrimonious aſperſions, are, that Abbot had ever oppoſed the preferring Laud, on account of his furious opinions, had ſometimes ſcreened the non-conformiſts from unjuſt and illegal proſecutions, and laſtly, endeavored to eſtabliſh, as a fundamental principle in eccleſiaſtical concerns, that the clergy ſhould attract the reverence of the laity by the ſanctity of their manners, and the uprightneſs of their morals, rather than to claim it as a prerogative due to their function.

Advancement of Laud.

Laud, now raiſed to the higheſt dignity in the church, was enabled to enforce with rigor that eccleſiaſtical diſcipline which he could not fully eſtabliſh during the life of his worthy predeceſſor *. Very exceptionable orders were ſent into Scotland, as a prelude to a general reformation †. In England, arbitrary oaths were impoſed by the biſhops on the church-wardens, who were to dilate any one who acted contrary to the articles which were enforced by authority ‡.

His ſchemes and arbitrary proceedings.

* The non-conforming divines, having loſt in Abbot all protection from the fury of Laud, fled into Holland, into New-England, and other colonies. *Prynne's Trial of Laud*, p. 361, *& ſeq.*

† For theſe inſtructions *vide Ruſhworth*, vol. II. p. 206. An article relative to the coronation-ſervice, gives riſe to a ſuſpicion that Laud had been altering, or adding to, the form of that ceremony, as he had before done in England.

‡ The following are ſome of the articles preſcribed by Mountague biſhop of Chicheſter, and Wren biſhop of Norwich, at their ſeveral viſitations.

Has your chancel aſcents up to the altar? Have you two fair ſurplices, that no point of divine ſervice may be done but in miniſterial veſtments? Do your pariſhioners uncover their heads, ſit bare all ſervice-time, bowing towards the chancel and communion-table, and uſe thoſe ſeveral poſtures which fit the ſeveral acts and parts of divine ſervice? Do they ſtand alſo at the reading of the Goſpel, and bend or bow at the

glorious,

Farther, to exclude Preſbyterians from getting into the church, and render miniſters more Anno 1633.

glorious, ſacred, and ſweet name of Jeſus? Does your miniſter read the ſecond or latter ſervice at the communion-table? Is the grave made Eaſt and Weſt? Is the body buried with the head to the Weſt? Doth any married woman neglect, after child-bearing, to come to church to give thanks? Doth ſhe come veiled in a decent manner, kneeling nigh to the communion-table? Are all the pews and ſeats in the church ſo ordered, that all they who are in them kneel down with their faces towards the Eaſt? At the end of every pſalm do they ſtand and ſay, "Glory be to the Father, &c.?" Have you in your pariſh any who do not reverendly behave themſelves entering into the church; that is, by bowing towards the altar? Does your miniſter perform all the ſervices of the church in his ſurplice, and never omit the wearing of the ſame, or of his hood if he be a graduate? Among other injunctions, the communicants were to come up and receive the ſacrament at the new rails, kneeling.

The following is a copy of the oath adminiſtred to the church-wardens.

"That you ſhall duly conſider, and diligently enquire of all and every of theſe articles given you in charge, and tendered unto you; and that all affection, favor, malice, hatred, hope or reward, gain, diſpleaſure of great men, malice, or other ſiniſter reſpect, ſet aſide, you ſhall faithfully diſcharge your duty, and truly preſent all and every ſuch perſon of and in your pariſh as hath made any default, or committed any offence in or againſt thoſe articles, or that be vehemently ſuſpected or defamed of any ſuch offence or crime; wherein you ſhall deal uprightly, truly, and fully, preſenting all the truth, and nothing but the truth, without partiality, having God before your eyes, and an earneſt Chriſtian zeal to maintain truth, order, and religion, and to ſuppreſs the contrary. So help you God, and the contents of this book."

At this time all lectures and ſermons were in a manner ſuppreſſed; even the miniſters who enlarged on the queſtions and anſwers in the catechiſm, were ſharply removed and enjoined penance for the offence: ſo fearful were the prelates leſt the people ſhould exert their right of reaſoning in matters of religion. Of one Leigh, a prebend of the church and college of Wolverhampton in the dioceſe of Litchfield, Laud writes thus: "If you can faſten any thing upon him whereby he may be juſtly cenſured, pray ſee it be done, and home; or bring him to the High commiſſion court, to anſwer it there.

Anno 1633. dependent on the biſhop, ſtrict rules were made, whereby no lecturer whatever was admitted to be a canonical title. All ordination of miniſters to ſupply lectures was totally excluded, nor any chaplainſhip to a nobleman's family allowed to be a ſufficient title. By this means new interrogations were introduced, and orders denied in caſe of diſſent: Such as, whether the church had authority in matters of faith? whether bowing towards the altar at approaching it, or at coming in, or going out of the church, *&c.* were commendable *?

there. But however, let him not obtain any licence to preach any lecture there, or in another exempt place hard by (Tettenhall), whither thoſe of Wolverhampton do now run after him out of their pariſh.—For the church hath not much need of ſuch men." *Prynne's Trial of Laud*, p. 93, *& ſeq.* p. 278, *& ſeq.*

* The communion-table of St. Gregory's having been, by the dean and chapter of St. Paul's, removed from the middle of the chancel, and placed altar-wiſe, the pariſhioners, in an appeal to the court of arches, complained of the innovation, and pleaded that the book of Common Prayer, and the eighty-two canons, gave liberty to place the communion-table where it might ſtand with moſt convenience; that by a general cuſtom it had been determined towards the body of the church, or the bottom of the chancel. Laud brought this queſtion before the King and council. The King declared, that he well approved and confirmed the act, and required it to be confirmed by the dean of the arches, if the pariſhioners ſhould proceed in their appeal. The council for the pariſh having quoted biſhop Jewel, and other divines, (whoſe books were enjoined to be kept in all churches for the peruſal of the people) that the communion-table ought to ſtand in the middle of the church, archbiſhop Laud got up in a fury, and ſaid, "If this be the uſe they make of theſe books, Jewel and Fox, I deſire they may be taken out of churches." The decree of the council concerning St. Gregory's declares, that all churches ought to be guided by the cathedral mother church. Theſe kind of innovations occaſioned the like diſputes to ariſe in many pariſhes. The archbiſhop gave particular directions to the archdeacon of Canterbury, that within that city all galleries and raiſed ſeats which were level to the

In the year 1627, according to an act which had paſſed in the firſt parliament of Charles's reign, chief-baron Walter, and Denham one of the puiſne barons of the court of Exchequer, made an order at the ſummer-aſſizes held at Exon, for ſuppreſſing all revels, which had been uſed upon the Sunday, requiring the juſtices of the peace to ſee the ſame put into execution; and that every miniſter in his pariſh-church ſhould read the ſaid order yearly, on the firſt Sunday in February. Richardſon, the chief-juſtice of

Anno 1633.

Heylin, p. 255, & ſeq. Ruſhworth, vol. II. p. 191, & ſeq.

Prynne's Trial of Laud, p. 128, & ſeq.

the high altar, ſhould be taken down. His brother prelates, whom he had raiſed for this purpoſe, were no leſs aſſiduous in their dioceſes. The church-wardens of Beckington in Somerſetſhire were excommunicated by the biſhop of Bath and Wells, for refuſing to remove and rail in the communion-table, and pull down the ſeat which ſtood above at the Eaſt-end of the church. Having been excommunicated a whole year, they were impriſoned in the common gaol; where after laying a long time, they were at length releaſed, on their public ſubmiſſion and repentance, acknowledging, that they had grievouſly offended the divine majeſty of Almighty God, and the laws eccleſiaſtical of the realm of England, in not having obeyed the command of their right reverend father in God the lord-biſhop of Bath and Wells. The churchwardens of other pariſhes being proſecuted in the ſame manner, were obliged to fly into New-England. It would be tedious to relate all the examples of a like nature which happened on the oppoſition theſe innovations met with. Several miniſters were ſuſpended and impriſoned, and enjoined ſubmiſſion and recantation. Hundreds of ſcrupulous people were excommunicated in almoſt every dioceſe in England, for refuſing to receive the ſacrament at the new rails. Miniſters were perſecuted in the High-commiſſion court, for adminiſtring the ſacrament to ſome of theſe conſcientious people. Notwithſtanding the extreme rigor with which this ceremony was exacted, biſhop Mountague, in a letter to Laud, owns, that he knew of no law, article, advertiſement, canon, or injunction, which required it; nor could he tell where or by whom it came up, only that it was the practice of the Roman church, at leaſt in Italy and Rome. *Prynne's Trial of Laud*, p. 89, *& ſeq*, p. 96, *& ſeq.*

the

Anno 1633. the King's Bench, on being importuned with many enormities which had happened at country-feaſts, made, at the Lent-aſſizes in the county of Exon, a ſevere order againſt all wakes and revels, according to a ſtatute which had paſſed in the fifth and ſixth of Edward VI. This was repreſented as a ſuppreſſing of religious ceremonies; ſuch as feaſts of dedication, enjoined by former popes; and if the people ſhould be deprived of theſe recreations, they would either go into conventicles, or into tippling-houſes, and talk of matters of the church and ſtate. Laud took fire, and complained to the King, that an encroachment was made on the eccleſiaſtical power, in impoſing on men in holy orders the publiſhing warrants and commands from the ſecular judges. On this complaint, Richardſon was commanded to revoke his order: He, knowing that he was obeying the dictates of two confirmed ſtatutes, diſregarded the injunction, and at the next aſſizes publiſhed the ſame in a more peremptory manner than before. On this he was commanded to appear before the council; where he was ſo roughly treated for his former contempt by archbiſhop Laud, that on his diſmiſſion he complained that he had been almoſt choaked with a pair of lawn ſleeves. He was directed to revoke his order, which he did in the following manner: That he was commanded by his majeſty to repeal his former order; which being warranted by ſo many precedents, he conceived he had no power abſolutely to reverſe, but he did, as much as in him lay, revoke it. This produced a petition, ſigned by all the juſtices of the peace upon the bench, deſiring leave to ſuppreſs unlawful aſſemblies. Laud engaged the King to ratify a former declaration made by his father, which revived

vived and enjoined the obſervation of wakes and feaſts of dedication, and licenſed ſports on the Lord's Day. This ratification was contrary to the expreſs purport and words of the fore-mentioned act, and was ſo adverſe to the prevailing opinions of the age *, that it occaſioned a greater murmuring than almoſt any other illicit exertion of power which had happened in this reign †. Anno 1633.

The Dutch, the Walloons, and the French, who had taken refuge in England from that torrent of perſecution which deluged almoſt every other part of Europe during the ſixteenth century, had obtained from former kings the liberty of celebrating divine ſervice after their own manner. Laud was now determined to deprive them of that privilege: Having previouſly obtained the conſent of the King and council, he ſummoned their miniſters to appear before his vicar-general, who delivered them two injunctions. Firſt, that all the natives of the Dutch and Walloon congregations in his grace's dioceſe, ſhould repair to thoſe ſeveral pariſh-churches

Ruſhworth, vol II. p. 272, & ſeq. Heylin, p. 276, & ſeq.

* Charles paid ſo little attention to the opinion of the public in regard to keeping Sunday, that civil affairs were uſually debated at the council-table; and that day was allotted for maſks, plays, and ſuch other amuſements, contrary to a ſtatute enacted in the firſt of his reign. *Hiſt of K. Charles, by H. L.* p. 129.

† Many hundreds of clergymen, for refuſing to publiſh the King's licence, were ſuſpended from their miniſtry, ſequeſtred from their livings, excommunicated, and proſecuted ſo ſeverely in the High-commiſſion court, that they were forced to leave the kingdom. Mr. Laurence Snelling, miniſter of St. Paul's Cray, in the county of Kent, having been deprived for this offence, objected to the authority of the court in a caſe merely civil. Laud, who preſided, gave order not to accept his anſwer, inſolently adding, that whoever ſhould make ſuch a defence, it ſhould be burnt before his face, and he laid by the heels for his pains. *Prynne's Trial of Laud*, p. 151.

where

Anno 1633. where they inhabited, to hear divine ſervice and ſermons, and perform all duties and payments required in that behalf. Secondly, that the miniſters, and all other of the Dutch and Walloon congregations who were not natives, and born ſubjects to the King's majeſty, or any other ſtrangers who ſhould come over to them, while they remain ſtrangers might have and uſe their own diſcipline, as formerly they have done; yet it was thought fit that the Engliſh liturgy ſhould be tranſlated into French and Dutch, for the better ſettling their children to the Engliſh government. Such injunctions were as a thunderſtroke to theſe ſtrangers, who had hitherto found in England an happy aſylum from all degrees of perſecution. They preſented a petition and remonſtrance to the archbiſhop, ſetting forth, that the injunctions now impoſed were oppoſite to all the privileges which had been continued to them during the reigns of kind Edward VI. queen Elizabeth, and king James, and confirmed to them by his now majeſty's regal word. Laud returned anſwer, that his majeſty was reſolved his inſtructions ſhould hold; and farther added, in the true ſtyle and ſpirit of a perſecuting zealot, "For my part, I doubt not but yourſelves, or your poſterity at leaſt, ſhall have cauſe to thank both the ſtate and the church for their care taken of you; but if you refuſe (as you have no cauſe to do) and I hope you will not, I ſhall then proceed againſt the natives according to the law and canons eccleſiaſtical." Theſe threats were ſo ſeverely executed, that thouſands of families were driven out of this country into Holland and New-England, to the great damage of all kind of manufactures *.

Coke, p. 311, & ſeq. Echard.

* Coke relates, that one hundred and forty families of the workers of the woollen manufactory, which ſupplied Hamburgh

To render the church of England, formed after the new model, as much marked and as much diffused as the church of Rome, Laud advised, that the English liturgy, with all the new rites and ceremonies prescribed, should be imposed on the regiments and trading companies abroad. The King's ambassadors in foreign countries had orders to withdraw themselves from the communion of the Hugonots! And thus was entirely lost to the crown of England the honor and the ad- Anno 1633. Heylin, p. 274, & seq.

Hamburgh and the countries within the Sound, went into Holland, where the Dutch for seven years established them free of house-rent and excise; and from these exiles became instructed in the woollen manufactory, which they were before unacquainted with.

The city of Canterbury had petitioned in behalf of the French and Dutch congregations dwelling among them; insisting, among other things, on the great charge they should incur, if the relief of the poor French, which had hitherto been maintained on the common purse of that church, should be cast upon them; and the great want of work which would happen to their own poor, if the manufactures of the French should be discontinued. This produced no other effect than the following clause added to the injunction: That the natives should continue to contribute to the maintenance of their ministry, and the poor of their church; and that an order should be obtained from his majesty, if it was desired, to maintain them in their manufactures, against all such as should endeavor to molest them by informations.

It is said, that Richelieu made the following speech on this exacted conformity. "If a king of England, who is a Protestant, will not permit two disciplines in his kingdom, why should a king of France, who is a Papist, admit two religions?"

The following was king Charles's answer to the deputies of the foreign churches, the thirtieth of April, 1625. "I assure you, that I will continue to you the same favor which the King my father did shew unto you; and I hope that my marriage shall not be any damage to you, but rather occasion much good to your countrymen." *Coke*, vol. I. p. 311, *& seq. Heylin*, p. 279, *& seq. Trial of Laud, by Prynne*, p. 397.

Anno 1633. vantage of being eſteemed the head and the ſupport of the Reformation. On Laud's tranſlation to the ſee of Canterbury, the chapels of Lambeth and Croydon were ſuddenly adorned with all the trappings of Popery *. The ſtories of the old remains of paintings in the windows were made up according to the Roman miſſal. The furniture and ornaments of the communion-table were adequate to the windows; and as theſe were to be the leading examples to all the other churches, copes in adminiſtring the ſacrament were conſtantly worn, bowing towards the altar was punctually obſerved, with all the other puerile ceremonies which made up the eſſentials of Laud's religion. So indefatigable was this prelate in introducing theſe innovations, which reſemble the Romiſh ritual, that not only the ſubjects of Great Britain, but all Europe, believed the church of England to be relapſing faſt into the true orthodox ſuperſtition. The court of Rome entertained hopes of regaining its authority; and, in order to forward Laud's pious intentions, made him twice an offer of a cardinal's hat. He declined accepting it, ſaying, "That ſomething dwelt within him which would not ſuffer his compliance, till Rome were other than it is."

Rushworth, vol. II. p. 273, & ſeq.

Laud's Diary, in the Breviate of his Life, by Prynne, p. 18.

Laud's objection was to the pretenſions of the Pope: He did not chuſe to ſubject his metropolitical power to the court of Rome. It is very plain, that the genius of his religious opinions was very much the ſame with that of the Romiſh

* A rich large crucifix, embroidered with gold and ſilver, was hung up in the King's chapel, over the altar; to which, as Prynne tells us, the chaplains were ordered to make their beſt bows. Laud ſet the example at his ingreſs and egreſs, a lane being made for him to ſee the altar, and do his reverence to it.

faith.

faith. If himſelf or his maſter had any objection to Popery, it aroſe, in the one, from the authority the Pope claimed over princes, and from the king-killing principles of the Jeſuits; in the other, from the deſire of enjoying a papal authority in Great Britain. The ſame profound veneration was demanded to the ſacerdotal character as the church of Rome exacted; the ſame abſolute ſubmiſſion to the creeds and decrees of eccleſiaſtical councils; the ſame pomp was affected in worſhip; and the ſame ſuperſtitious regard to ceremonies, days, poſtures, meats, and veſtments. This ſuperſtition, which as much defiled the purity of religion, and was as noxious to civil liberty as Popery, both the King and Laud avowed, and attempted by force to eſtabliſh; appealing to the unſettled opinions of half-converted prelates on the early dawn of Reformation, and to the authority of fathers who wrote in ages when the Chriſtian church more than inclined to an idolatrous ſuperſtition, and was deeply ſullied with the droſs of time. Anno 1633.

Whilſt all England trembled at the power Laud exerted, from his influence over the council-table, Star-chamber, and High-commiſſion court; whilſt the terrors of Leighton's puniſhment hung yet on the mind of the public; the courage, or rather hardineſs of William Prynne, a barriſter at law, gave riſe to a ſcene of almoſt equal butchery. This man was a Preſbyterian, as obſtinate, as zealous, and as limited in his opinions, as Laud himſelf. His religious affections were much ſhocked at the increaſing profligacy of the times, excited and encouraged by a ſwarm of theatrical performances, whoſe numbers had in a manner deluged the age. The worthy purſuits of ſcience were, with never-failing watchfulneſs, barred from the

Anno 1633. ſubject by thoſe Arguſes who guard tyranny, the licenſers of the preſs. Thus excluded from the uſeful paths of literature, the people of genius and fancy applied themſelves ſolely to the writing plays, and ſuch kind of compoſitions, which, though they gave no offence to power, were very deſtructive to the morals of the people, who purſued theſe amuſements with an eager uncloyed appetite. The King, the Queen, and the whole court, entered with glee into a ſpecies of entertainment, which, whilſt it varied the action of the idle buſineſs of a monarchical life, helped to diſſipate that reflection in the public which is ſo formidable to ill-deſigning princes. Maſks and mummings, drolls and dancings, were now the chief occupation of life; and Charles, who from his infancy had imbibed a taſte for romances, made one with the queen, the noblemen, the ladies, and other followers of the court, in theſe exhibitions *. In the midſt of this general rage for what was called pleaſure, Mr. Prynne took up the pen, and wrote a book, levelled againſt the darling diverſions of both King and ſubject. He tells us, in his dedication to the law-ſociety of Lincoln's Inn, that he was incited to this daring act on having ſeen, in four ſeveral plays, great wickedneſs and lewdneſs; that ſome young gentlemen of his acquaintance, who frequented playhouſes, from being civil and chaſte, became ſo vicious and prodigal, that they were diſinherited by their parents; that the number of players, playbooks, and playhouſes, were ſtill encreaſing; that above forty thouſand playbooks were printed

* They were allegorical repreſentations of deities, heroes, elements, ſeaſons; ſometimes the glories of the reigning family were ſung and danced in theſe pieces; with other flattering ſubjects of this ſort.

within two years: that two old playhouſes were lately re-edified and enlarged, and one new one erected; that the multitude of London play-haunters was ſo augmented, that all the ancient playhouſes, being five in number, were not ſufficient to maintain their troops; that a ſixth was now added to them: whereas, even in Nero's reign, there were but three ſtanding theatres in Rome. Mr. Prynne's great zeal to reform the age made him ſwell this performance to one thouſand pages, being a collection of all the paſſages againſt theatrical performances he had found in the fathers, and other grave authors, with his own prolix remarks. This ſtupendous work was entitled "Hiſtrio Maſtix." It appeared ſo inoffenſive, that he got it formally licenſed by archbiſhop Abbot's chaplain. Six weeks after it came out, the queen acted a part in a paſtoral. Laud, who was a great enemy to Prynne *, ſhewed this book to the King and Queen, laying a malicious ſtreſs on a reference in the table of the work, "Women-actors notorious whores." Prynne was confined in the Tower. Dr. Heylin, Laud's creature, was ſet to collect all the ſevere paſſages in the performance; and Noy was charged to proſecute the offender in the Star-chamber †. Noy

Anno 1633.

Proſecution of Prynne.

* For having detected him in his endeavors to impoſe Arminian tenets as the orthodox opinions of the church of England; on account of his publication againſt the neceſſity of epiſcopacy, againſt the innovations introduced in religious worſhip; and becauſe of his ſucceſs in procuring prohibitions to Laud's proceedings againſt him in the High-commiſſion court. Prynne in this performance aſſerted, that biſhops ought to invit the poor to their tables, to have part of the ſcripture read at meals, and preach conſtantly once a-day; that miniſters ought not to meddle with ſecular affairs, nor bear ſecular offices. *Prynne's Trial of Laud.*

† The behavior of the individuals who compoſed this infamous court of Star-chamber, on the judgment they gave

Anno 1633. truly performed the part of the king's attorney, inflaming his charge with forced conſtructions and

againſt Prynne is ſo puerile, inſolent, and unbecoming the denomination of a court of juſtice, that it is proper in an Hiſtory of thoſe times to expoſe it to the contempt of the public.

The firſt who ſpoke was lord Cottington. He declared, that Mr. Prynne, in that libellous book, had expreſſed a malice againſt all mankind, and the beſt ſort of mankind, kings, princes, peers, prelates, magiſtrates, and governors; that he was aſſiſted immediately by the Devil himſelf, or rather, that he had aſſiſted the Devil. Among other curious paſſages in Cottington's ſpeech, he addreſſing the aſſembly, ſaid, "My lords, ſhall not all who hear theſe tidings think that it is the mercy of the King that Mr. Prynne is not deſtroyed? Have not we ſeen men condemned to be hanged and quartered for far leſs matters? One Pinchman, I was myſelf employed with others in the examining him: He confeſſed, that the writing for which he was queſtioned was a ſermon, which he did intend to preach; the words were againſt the perſon of the King, yet he never preached it; yet becauſe he had written it with an intention to preach it, he was brought upon this point, and condemned to die. But this book is in print: It is againſt all magiſtrates, and particular againſt our ſovereign and his bleſſed conſort. And yet, my lords, it pleaſeth his majeſty to let Mr. Prynne have his trial here. Mr. Attorney noted unto your lordſhips, that you ſhould ſee how neceſſary it was that Mr. Prynne ſhould be clean cut off, as one who had a long time endeavored to move the people againſt the King. So I ſay with Mr. Attorney, it is high time that Mr. Prynne may be cut off, ſo far as may go with the cenſure of this court. My lords, Mr. Prynne is better dealt withal than he would have princes dealt with: he has had fair trials."

The next perſon who ſpoke was the lord-chief-juſtice Richardſon. "My lords, ſaid he, every man taketh upon him to underſtand what he conceiveth, and thinks he is nobody unleſs he is in print. We are troubled here with a monſter (*monſtrum horrendum informe ingens*). I do not think that Mr. Prynne is the only actor in this book, but that there were many heads and hands in it beſides himſelf. I would to God in Heaven that the Devil, and all elſe who had their heads and hands therein beſides Mr. Prynne, were, &c, for I think that they are all ill-willers to the ſtate, and deſerve puniſhment as well as Mr. Prynne doth. For the book, I do hold it a moſt ſcandalous, infamous libel on the King's majeſty—a moſt pious and religious King; on the queen's majeſty—a moſt excellent and

gracious

aggravating terms, till general invectives againſt plays were mounted to a treaſonable libel, of Anno 1633.

gracious queen; ſuch a one as this kingdom never enjoyed the like, and I think the earth never had a better. I ſaid, it was a ſeditious libel: This point of ſedition is the only thing which troubles me; and it is that which I ſhall offer to your lordſhips; for I do know it, the good opinion, heart, will, and affections of the King's ſubjects, are his greateſt treaſure. Now if this be ſo, for any man cunningly to undermine theſe things, to take away the hearts of the ſubjects from the King, and to bring the King into an ill opinion among his people, this is a moſt damned offence; and if I were in my proper place, and Mr. Prynne brought before me, I ſhould go another way to work. I proteſt unto your lordſhips, it maketh my heart to ſwell, and my blood in my veins to boil (ſo cold as I am) to ſee this or any thing attempted, which may endanger my gracious ſovereign: it is to me the greateſt comfort in the world to behold his proſperity. Mr. Prynne writeth, that Tribellius Pollio relates, that Martian, Heraclius, and Claudius, three worthy Romans, conſpired together to murder Gallienus the emperor, a man much beſotted, and taken up with plays, to which he likewiſe drew the magiſtrates and people by his lewd examples; as Flavius and others conſpired Nero's murder for the ſelf-ſame cauſe. Now, my lords, that they ſhould be called three worthy perſons who do conſpire an emperor's death (though a wicked emperor), it is no Chriſtian expreſſion. If ſubjects have an ill prince, marry what is the remedy; they muſt pray to God to forgive him; and not ſay they are worthy ſubjects who do kill him. If they were worthy acts, Mr. Prynne, I can tell what you are. No man will conſpire to murder a king, who can be a worthy actor; for the very thought of it is high-treaſon. He ſpeaketh of theſe three, that they were three worthy Romans who did conſpire to murder Nero. This is moſt horrible; and there can be no manner of expoſition, but in the worſt ſenſe. For his excuſe, he hath made none at all, only that it was not his intention."

The earl of Dorſet, the queen's chamberlain, was the laſt man who ſpoke: He ran out into an elogium on his miſtreſs. "Now, my lords, ſaid he, as he hath wounded his majeſty in his head, power, and government, and her majeſty, his majeſty's dear conſort, our royal queen, and my gracious miſtreſs, I can ſpare him no longer; I am at his heart. *Oh, quantum! &c.* If any caſt aſperſions and cenſures on our queen and her innocency, ſilence would prove impiety, rather than ingratitude in me, who daily contemplate her virtues,

Anno 1633. dangerous conſequence to the realm and ſtate. Prynne having owned himſelf the author, the ſol-

I will praiſe her for that which is her own; ſhe drinks of the ſpring-head, whilſt others take up with the ſtream. I ſhall not alter the great truth, which has been ſaid with a heart as full of devotion as a tongue of eloquence, the other day, as it came to his part, Sir John Finch: "My lords, her own example to all virtues, the candor of her life, is a more powerful motive than all precepts, than the ſevereſt laws; no hand of fortune or of power can hurt her; her heart is full of honour, her ſoul of chaſtity; majeſty, mildneſs, and meekneſs, are ſo married together, and ſo impaled in her, that where the one begetteth admiration, the other love. Her ſoul of that excellent temper, ſo harmoniouſly compoſed; her zeal in the ways of God unparalleled; her affections to her lord ſo great, if ſhe offended him it is no ſun-ſet in her anger; in all her actions and affections ſo elective and judicious; and a woman ſo conſtant for the redemption of all her ſex from all imputation which men ſometimes lay on them; a princeſs for the ſweetneſs of her diſpoſition, and for compaſſion, always relieving ſome oppreſſed ſoul, or rewarding ſome deſerving ſubject. Were all ſuch ſaints as ſhe, I think the Roman church were not to be condemned. On my conſcience, ſhe troubleth the ghoſtly father with nothing, but that ſhe hath nothing to trouble him withall. And ſo, when I have ſaid all in her praiſe, I can never ſay enough of her excellency; in the relation whereof an orator cannot flatter, nor a poet lie." When the earl of Dorſet had finiſhed his exalted panegyric, he gave his ſentence againſt Mr. Prynne in the following low, illiberal, abuſive terms. "Mr. Prynne, ſaid he, I do declare you to be a ſchiſm-maker in the church, a ſedition-ſower in the commonwealth, a wolf in ſheep's cloathing; in a word, *omnium malorum nequiſſimus*. I ſhall fine him ten thouſand pounds, which is more than he is worth, yet leſs than he deſerveth. I will not ſet him at liberty, no more than a plagued man, or a mad dog, who, though he cannot bite, he will foam. He is ſo far from being a ſociable ſoul, that he is not a rational ſoul; he is fit to live in dens with ſuch beaſts of prey as wolves and tigers like himſelf; therefore, I do condemn him to perpetual impriſonment, as thoſe monſters which are no longer fit to live among men, nor to ſee light. Now, for corporal puniſhment, my lords, whether I ſhould burn him in the forehead, or ſlit him in the noſe; for I find that it is confeſſed of all, that Dr. Leighton's offence was leſs than Mr. Prynne's—then why ſhould Mr. Prynne have a leſs puniſhment? He

who

lowing cruel ſentence was paſſed upon him: "To be put from the bar; to be excluded from the Anno 1633. Sentence on Prynne.

who was guilty of murder was marked in a place where he might be ſeen, as Cain was: I ſhould be loth he ſhould eſcape with his ears, for he may get a perriwig, which he now ſo much inveighs againſt, and ſo hide them, or force his conſcience to make uſe of his unlovely love-locks on both ſides; therefore, I would have him branded in the forehead, ſlit in the noſe, and his ears cropt too, my lords. My lords, I now come to this ordure, I can give no better term to it, to burn it, as it is common in other countries; or otherwiſe we ſhall bury Mr. Prynne, and ſuffer his ghoſt to walk: I ſhall therefore concur to the burning the book. But let there be a proclamation made, that whoſoever ſhall keep any of the books in his hands, and not bring them to ſome public magiſtrate to be burnt in the fire, let them fall under the ſentence of this court."

The earl of Dorſet, in the beginning of this harangue, ſaid, that he ſhould do that which a judge ought to do; *viz.* aſſiſt the priſoner at the bar.

Mr. Prynne had lain a whole year in the Tower before he was brought to this court to receive ſentence. In the following year he was again proſecuted for having written a letter to Laud, with very free animadverſions on the ſeverity of his treatment: He eſcaped a ſecond puniſhment by dexterouſly getting the letter in his hands, and thus deprived the archbiſhop of evidence. Noy opened the charge by ſaying, that he had had much more favor ſhewn him than he deſerved; he had been mercifully dealt withal. He had been in priſon, he had been degraded, he had had his ears cut off, he had undergone all ſhame.

There is a paſſage in lord Cottington's ſpeech, on his ſentence given againſt Prynne, which gives riſe for ſuſpicion that there were cruelties practiſed by Charles and his miniſtry, againſt the oppoſers of the court, which are unknown to poſterity. One Pinchman was condemned to die for writing a ſermon he never intended to preach. I believe there is a miſtake in the printing this name, and that the fact Cottington mentions relates to one Edmund Peachum, who, in the twelfth of James, was tried in Somerſetſhire for the aforeſaid offence, and brought in guilty of high-treaſon: He had been kept in priſon a whole year before his trial. In priſon, he had been racked ſeveral times, as has been obſerved in the firſt volume of this Hiſtory. James was ſo deſirous of obtaining his condemnation, that he ſent his ſerjeant and ſolicitor down to proſecute

Anno 1633. ſociety of Lincoln's Inn, and degraded at Oxford; to ſtand in the pillory at Weſtminſter and Cheapſide, with a paper on his head, declaring his offence to be an infamous libel againſt the King, the ſtate, and the government; to loſe an ear in each place; to have his book burnt before his face by the hands of the common hangman; to be fined five thouſand pounds to the King; and to ſuffer perpetual impriſonment. Michael Sparkes, the publiſher and printer of the book, was fined five hundred pounds, and to ſtand in the pillory. Buckner, the chaplain, who licenſed it, fifty pounds. He was uſed with this lenity becauſe he avowed to the court, that he approved of all the ceremonies then uſed in the church; church-muſic he did allow of, and bowing at the name of Jeſus.

The illegal, barbarous puniſhment which had been inflicted on Prynne, inſtead of rouſing the half-ſubdued ſpirit of the Engliſh, gave riſe to a pompous performance of the ſame ſort as the unfortunate barriſter had with ſo much hardineſs condemned. Noy the attorney-general, Sir Edward Finch the ſpeaker of the houſe of Commons, and other dependents of the court, had ſo much influence on their brethren, as to inſtigate them to offer a maſk to the King and queen, to wipe off the ſtain of being thought diſaffected to their favorite amuſement. To the ridicule of every perſon of common ſenſe in the kingdom, the four grave ſocieties of the inns of court threw

ſecute him. In this reign, I find an inſtance of a man impriſoned and racked on a falſe information of treaſon. *Ruſhworth*, vol. II. p. 247, & *ſeq.* Vol. III. *Appendix*, p. 34. *Letters, Speeches, &c. by Dr. Birch*, p. 47, *note*. *State Trials*, vol. I. p. 396, & *ſeq.*

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aſide their law-ſtudies, and attached themſelves with earneſtneſs to the important buſineſs of a maſk, the regulating of which was entruſted to committees and ſub-committees appointed for that purpoſe. Neither pains nor coſt were neglected: It is ſaid that this compliment coſt the lawyers upwards of twenty-one thouſand pounds *. The King and queen were ſo delighted with the ſhow, that, according to their deſire, it was again repeated in the city, at the expence of the lord-mayor, who entertained them with a magnificent dinner; and the city had the complaiſance to preſent the queen with a jewel worth four thouſand pounds. They had offered a preſent of two thouſand pounds; but that was rejected by the queen's chamberlain, as a gift not coſtly enough †. Anno 1633. Strafford's Letters, vol I. p. 207.

* The lawyers ſhewed their diſlike to patents and monopolies by a piece of ſatire introduced in the maſk. Patents were ridiculed by a man riding on a little horſe with a great bit, himſelf wearing a bit, head-ſtall, and reins, and begging a patent that none in the kingdom might ride their horſes but with ſuch bits as they ſhould buy of him. Monopolies were ridiculed under the character of a man with a bunch of carrots upon his head, and a capon on his fiſt, begging a patent of monopoly, as the firſt inventor of the art of fattening capons with carrots. *Whitlock*, p. 18, *& ſeq.*

† Among the proclamations of this year, one enjoined the uſe of the bow and pike in military diſcipline. Another was publiſhed for pricing wines: The price of the beſt French wine was fixed at one ſhilling per quart. Another reſtrained the ſale of tobacco; and another limited the prices of victuals within the houſhold: This order was executed by an officer nominated the Clerk of the market of his majeſty's houſhold, who not only ſet arbitrary rates on proviſions, but regulated the buſineſs of weights and meaſures, and all abuſes therein. So very monarchical was the practice of theſe times, that this officer was inveſted with a power to inflict not only pecuniary but corporal puniſhment on offending and refractory perſons. Farther to ſhew the power which the King and privy-council exerciſed to dictate in all matters relative to the police of the country,

Anno 1633. The moſt active ſecond of Laud in all his arbitrary practices was the lord viſcount Wentworth *. This man, ſince he commenced courtier, had become ſo great a tool of monarchy, and given ſuch way to his vanity, and other contemptible paſſions, that he ſeems to have ſacrificed with his virtue all pretenſions to common ſenſe. During his preſidentſhip of the council of York, he exerciſed his power not only unjuſtly, but with a childiſh inſolence. Sir David Fowlis, one of the council of York, a deputy-lieutenant, and juſtice of the peace; Sir Thomas Layton, ſheriff of the county; and Henry Fowlis, Eſq. were by him brought into the Star-chamber for diſcouraging people from paying their compoſition money in the matter of knighthood. Though the charge was frivolous, and amounted to nothing but ſome trifling cenſures

Wentworth's behavior as preſident of the council of York.

country, an order of the council was hung up in a table near St. Paul's and the Black Friars, to command all who reſorted to the playhouſe to ſend away their coaches to diſperſe abroad in St. Paul's church-yard, and other places, not to return to fetch their company, but they to go on foot to their coaches.

A commiſſion was given to the archbiſhop of Canterbury, the biſhop of London, and others, for compounding differences between debtors and their creditors. This act of arbitrary ſovereignty had been exerciſed both by Elizabeth and James.

Among the numberleſs proclamations of this reign, there is one againſt merchants, fiſhermen, and mariners, who having in king James's time been prohibited to trade with the ſavages of New-England, did barter away to thoſe ſavages ſwords, pikes, muſkets, match, powder, ſhot, &c. with which they deſtroyed the Engliſh who ſold thoſe weapons to them. *Strafford's Letters*, vol. I. p. 175, & *ſeq.* *Rymer*, vol. XIX. p. 210, 228, & *ſeq.*

* Wentworth's firſt advice in council was, that the King ſhould take tonnage and poundage as belonging to his prerogative, if the parliament refuſed to grant it; and to protect the farmers of the cuſtoms in defiance of that aſſembly. *Lloyd's Worthies*, fol. ed. Lond. 1668, p. 22.

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of the president, and just reflections on the authority of the council of York; after asserting the prerogative of the crown in the business of knighting, the court fined Sir David Fowlis, as the principal offender, five thousand pounds to the King, and to acknowledge his great and several offences to his majesty and the lord viscount Wentworth, not only in the court of Star-chamber, but in the court of York, and likewise at the open assizes in the same county, where the decree was to be publicly read; moreover, to pay three thousand pounds to the lord Wentworth. As the council urged no proof against Sir Thomas Layton, he was dismissed without censure. Henry Fowlis was committed to the Fleet, and to pay five hundred pounds to the King's use *. Anno 1633

* In the following manner did Wentworth prejudge the cause, and solicit his fellow-counsellors for a sentence flattering to his vanity and his revengeful disposition. To lord Cottington he writes thus: "The sentencing this man (Fowlis) settles the right of knighting business bravely for the crown; for in your sentence you will certainly declare the undoubted right and prerogative the King hath therein, by common law, statute law, and the undeniable practice of all times: And therefore I am a suitor by you to his majesty, that he would be graciously pleased to recommend the cause to the lords, as well in his own right, as in the right of his absent poor servant, and to wish them all to be there. You are like to begin the sentence; and I will be bold to tell you my opinion thereon: You have been pleased sometimes, as I sat by you, to ask me my conceit upon the cause then before us; admit me now to do it upon my own cause; for by my truth I will do it as clearly as though it concerned me not. First, I desire you to remember how Greenfield was fined for calling my lord Suffolk only base lord; how a jury gave three thousand pounds damages to my lord Say for the same words; and then balance the slander most ignominiously and maliciously put upon me by Sir David and his son, and let me not be less valued than other men, when I conceive that I merit to be more regarded than they: For, first, I suffer merely for

Anno 1634. The council of York had been erected by Henry VIII. without any authority of parliament, under the ſpecious pretence of eaſing thoſe ſub-

for my zeal in his majeſty's ſervice, never having given him the leaſt perſonal offence in all my life. Secondly, I was then in the heat of his majeſty's buſineſs, which might by this means, taking away my credit, have been deſtroyed: I was (albeit unworthy) in that place chief governor under his majeſty, his lieutenant, and preſident of his council there, which makes this a direct mutiny, and ſtirring up a ſedition againſt the regal authority, as well as me. Thirdly, it is the moſt untrue, as well as malicious calumny, which ever was ſet on a man.—Much more I could ſay, if I were in the Star-chamber to ſpeak in ſuch a cauſe for my lord Cottington. But I will conclude with this, that I proteſt to God, if it were in the perſon of another, I ſhould, in a cauſe ſo foul, the proof ſo clear, fine the father and the ſon, Sir David and Henry Fowlis, in two thouſand pounds a-piece to his majeſty, and in two thouſand pounds a-piece damage to myſelf for their ſcandal; and they both to be ſent down to York, and there publicly, at York aſſizes next, to acknowledge in the face of the whole country the right his majeſty hath to that duty of knightings, as alſo the wrong he hath done me; humbly craving pardon of his majeſty, and expreſſing his ſorrow ſo to have miſrepreſented his majeſty's moſt gracious proceeding, even in that courſe of compounding, where the law would have given him much more, as alſo for ſo falſly ſlandering and belying me without a cauſe. For Sir Thomas Layton, he is a fool, led on by the noſe by the two former; nor was I willing to do him any hurt, and ſo let him go for a coxcomb as he is; and when he comes home, tell his neighbors it was well for him he had leſs wit than his fellows."

On Wentworth's compliments on this account to Laud, he returned anſwer, That whereas he (Wentworth) ſerved the church ſo heartily, church-men would be much to blame if they did not ſerve him.

Wentworth brought a yet more childiſh complaint againſt Henry Bellaſis, ſon to the lord Falconberg. He was called before the council-board to anſwer his not having pulled off his hat to the lord-preſident. Notwithſtanding he pleaded he was talking to the lord Fairfax, and that his face was turned another way, he was committed to the Gate-houſe, till he had on his knees made an acknowledgment to the offended preſident. *Strafford's Letters*, vol. I. p. 145, 212, & *ſeq.* *Ruſhworth*, vol. II. p. 8.

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jects who had not money to profecute their ſuits in the courts at Weſtminſter. The juriſdiction of this unconſtitutional court extended over Yorkſhire, Northumberland, Cumberland, and Weſtmoreland, the biſhoric of Durham, the counties of the city of York, Kingſton upon Hull, and Newcaſtle upon Tyne. At firſt, it acted according to the rules of other criminal courts; but king James, in the very firſt year of his reign, by his commiſſion to the lord-preſident, made it depend on inſtructions which the King ſhould ſend; its bounds to be limited or enlarged according to the conveniencies of ſtate. Charles, who improved upon every plan of uſurpation which had been traced out by his father, at the deſire of lord Wentworth, renewed the commiſſion to him, with ſuch exorbitant powers that it made the council of York a court of equity, with an extenſive civil juriſdiction, independent of the courts at Weſtminſter, and every rule of law in the kingdom. Among other matters, the preſident and council were to puniſh divers offences, whether the ſame was provided by act of parliament or not, ſo as the fines impoſed were not leſs than were appointed by parliament: Likewiſe, to hear and determine, according to the courſe of proceedings in the court of Chancery, all manner of complaints, and to ſtay proceedings in the courts of common law, by injunctions or otherwiſe, as is uſed in the courts of Chancery; that no prohibition ſhould be granted at all, but in caſes where the preſident exceeded the limits of his inſtructions; and that if a Habeas Corpus was granted, the party not to be diſcharged till he performed the decree of the court; if any fine or amerciament ſhould be ſet for not freeing ſuch perſons committed before the

Anno 1634.

Rym. Fœd. vol. XIX. p. 414, & ſeq.

Anno 1634. decree was performed, the treaſurer and barons of the Exchequer were by the inſtructions ordered to diſcharge it. And if any commiſſion of rebellion againſt the decree of the ſaid court ſhould be ſued out of the court, and the party ſhould happen to fly out of the juriſdiction of the ſaid court, the ſerjeant at arms attending the lord-preſident or vice-preſident, or any other they ſhould authorize in that behalf, were to attach the perſon ſo offending in any parts of the realms of England *. "And whereas, added the inſtructions, we perceive that mildneſs and favors do much bolden the evil-diſpoſed, we earneſtly require the ſaid lord-preſident and council, for ſome convenient ſeaſon from henceforth to uſe ſeverity againſt notable offenders, and to puniſh them without long delay, not only by pain of body and impriſonment, but alſo by good fines and amerciaments, ſo as the opinion and report of ſeverity may work that by force, which is, and hath long been ſeen will not be obtained by favor and gentleneſs †."

* Theſe inſtructions were even more arbitrary than thoſe which were given to the lord-preſident of the principality of Wales. The government of this country had been thought ſo oppreſſive, that James had been continually petitioned by the Commons, though in vain, to give up this part of his prerogative, and admit that the Welſh ſhould be under the ſame juriſdiction as were the ſubjects in England.

† Theſe additional clauſes were added, on lord Wentworth having exerted a tyranny beyond the bounds of his inſtructions. One Vaux procured a prohibition: he was arreſted by a warrant from lord Wentworth, and afterward reſcued. Another warrant was directed for bringing the reſcuers from London to York, where they were impriſoned: Wentworth ſaying, that whoſoever brought a prohibition there he would lay them by the heels; that he would try the juriſdiction of the court of York; and if the judges did not remand the cauſe back again, he would appeal to the King. Mr. Thorpe, a lawyer and juſtice of peace, on obtaining a prohibition, was

The attention of the miniſtry for the firſt five years of Charles's reign had been ſo entirely di- Anno 1634.

was put out of his office. He having, at the quarter-ſeſſions, declared he would appeal from that court to the judges, Wentworth brought him upon his knees to make ſubmiſſion; ſaying, he would teach him there were other men for him to complain to, the preſident and council. Wentworth was angry with Thorpe for not continuing long enough on his knees, and bound him over to his good behavior, and to make ſubmiſſion at the ſeſſions for having defended his client's cauſe with warmth, though he appealed to the King's council whether he had ſpoken any thing contrary to law. This was not the only proſecution Thorpe met with from the angry deputy: One day, as he attended a cauſe in the Star-chamber, Wentworth accoſted him thus: "I command you not to depart the town." In compliance with this injunction, Thorpe attended ſome time, without being told the nature of his offence, only that he did oppoſe the lord Wentworth, and he ſhould attend. At length, by the intereſt of the lord Goring, he was diſmiſſed into the country, with an order to pay knighthood-money, though he had not been in poſſeſſion of forty pounds per year three years before the coronation, as mentioned in the writ. Another offender having been arreſted by a ſerjeant at arms, and kept eighteen weeks in confinement, appealed to the King at the council-table. Wentworth being preſent, fell on his knees, and beſought the King to let him leave his ſervice, if his inſtructions might not be ſo good as to bring in a delinquent who ſtepped over the water. The preſident complaining to Cottington that the Exchequer-men had ſent out warrants to bind all recuſants to their good behavior, writes, "And to help this matter the better, juſtice Vernon openly in his charge at York-aſſizes delivered, as he ſaid, my lord-keeper's directions, and the King's command, concerning recuſants; that his majeſty's pleaſure was, that the juſtices of the peace ſhould execute all the ſtatutes upon them, which were obſerved to be very faintly and remiſsly performed, and eſpecially that of twelve-pence per Sunday; and preſſed it ſo far as to make their former neglect of execution diſloyalty, if not perjury. It ſeems, either did my lord-keeper very effectually deliver his majeſty's pleaſure to the judges before the circuit, or this juſtice Vernon very dutifully obſerve it. Betwixt them, I am ſure they have made all the recuſants ready to run from their compoſitions, thinking that there is no faith to be kept with them on this earth; and ſo hazards the overthrowing a

Anno 1634. Affairs of Ireland.

rected to the ſubduing the determined ſpirit of the Engliſh ſubject, that Ireland had been in a manner neglected. To the Iriſh plantations, undertaken by king James, Scotland had tranſplanted the greateſt number of adventurers: theſe planters gave the tinct of Calviniſm to the reformed religion in that country. In the year

Collier's Eccleſiaſtical Hiſtory, fol. ed. 1714, vol. II. p. 897.

greater ſervice than they, put them both together, will do his majeſty, I believe, theſe ſeven years. Nor was Mr. Juſtice Vernon leſs peremptory with his majeſty at Durham: for being on the bench, hearing a Niſi Prius, there were offered by the one ſide certain depoſitions to be read, taken before the preſident and council; the judge rejected them. It was replied, by the King's inſtructions they were commanded to be read; and offered to ſhew that article in the inſtructions under the great ſeal of England, which ſo ordains it; but my gentleman, he knew of no ſuch matter—the inſtructions were nothing to him—and ſo would not ſuffer either the reading of the depoſitions or articles. If this were not a goodly example, in the face of a country living under the government of a preſident and council, for the reſpect and obedience due to the authority ſet over them by his majeſty, of that awful reverence and duty which we all owe to his majeſty's declared good will and pleaſure, under the great ſeal, I am much miſtaken. I do therefore moſt humbly beſeech this judge may be convented at the council-board, charged with theſe two great miſdemeanors; which if he deny, I pray you ſay openly in council, that I am the perſon will undertake to prove them againſt him; and withal affirm, that by theſe ſtrange extravagant courſes he diſtracts his majeſty's government and affairs more than ever he will be of uſe to them; and that therefore I am a moſt earneſt ſuitor to his majeſty and their lordſhips, that he be not admitted to go that circuit hereafter: and indeed, I do moſt earneſtly beſeech his majeſty by you, that we may be troubled no more with ſuch a peeviſh indiſcreet piece of fleſh.

"I confeſs I diſdain to ſee the gown-men in this ſort hang their noſes over the flowers of the crown, blow and ſnuffle upon them, till they take both ſcent and beauty off them; or to have them put ſuch a prejudice upon all ſorts of men, as if none were worthy to be truſted with honor, and adminiſtration of juſtice, but themſelves." *Ruſhworth*, vol. II. p. 158, & *ſeq.* *Strafford's Letters and Diſpatches*, vol. I. p. 129, & *ſeq.*

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1615, by the management of the learned Dr. James Uſher, then provoſt of Dublin-college, and afterwards lord-primate, the whole doctrine of Calviniſm was received as the public belief of the Iriſh church, and ratified by the lord Chicheſter in the King's name. James having earneſtly engaged in the controverſy with Vorſtius, could not immediately reject thoſe opinions which he had countenanced, and in a manner ſupported, in Holland. Laud was now determined to introduce in Ireland the belief and diſcipline he had eſtabliſhed in England. The revenue of that country was not ſufficient to ſupply the expence of the government, and to maintain the addition of troops which had been eſtabliſhed on Charles's acceſſion *. Anno 1634.

Standing armies are always agreeable to the views of arbitrary princes. The inſolence of the Iriſh Papiſts, who had been hitherto favored by the miniſtry, furniſhed a pretence for augmenting the military force in that kingdom. To effect this, and thereby to model the frame of government on the true prerogative footing, to raiſe the revenue to a height which ſhould not only render that crown leſs burthenſome to the monarch, but furniſh an overplus to ſupport the magnificence of his ſtate in England, became the prime object of Charles's council. To execute theſe great deſigns, none was thought ſo proper as the viſcount Wentworth: his inſolent behavior whilſt he preſided in the council of the North, was miſ-

* He had increaſed his army in Ireland from fifteen hundred men to five thouſand foot and five hundred horſe, and had quartered them in ſeveral troops and companies upon the counties and towns of the kingdom, to maintain them in their turns for three months at a time, with money, cloaths, and victuals. *Carte's Life of the Duke of Ormond*, p. 50.

Anno 1634. conſtrued by the King into a maintaining his dignity; the inflexibility he had ſhewn in the illegal courſes which had been preſcribed to him, was regarded as a fulfilling the duties of a miniſter, and an honeſt attachment to the rights of the crown. In the year 1631, he was appointed deputy of Ireland. His powers, at his own requeſt, were enlarged beyond thoſe of any of his predeceſſors; with liberty to raiſe as numerous an army as he pleaſed *.

Thus inveſted with a plenitude of authority, he undertook to perform wonders in Ireland, and to more than ſatisfy all the expectations of the Engliſh miniſtry. The folly and inſolence of his carriage, on his entrance into his office, was of a piece with his behavior in England. He treated all the men of rank and fortune in the country with a ſupercilious ſtate, and the council as if they had been his ſervants †. The revenue of

Carte's Life of Ormond, vol. I. p. 58, & ſeq.

* The following were two of the propoſitions made by Wentworth on his acceptance of this office; they were agreed to by the King: *viz.* That no particular complaint of injuſtice or oppreſſion be admitted againſt any, unleſs it appear the party made his firſt addreſs to the deputy.

That the places in the deputy's gift, as well of the civil as the martial, be left freely to his diſpoſe; and that his majeſty will be graciouſly pleaſed not to paſs them to any, upon ſuit made to him here. *Strafford's Letters*, vol. I. p. 66.

† The firſt council he ſummoned was only a particular number who were the moſt diſtinguiſhed by the dignity of their offices: theſe he offended by making them wait two hours before he came to them.

As trifling anecdotes are often of ſervice to inveſtigate the true characters of men, I ſhall notice the following ceremony Wentworth uſed on his return from his inauguration: Paſſing through the prince's chamber, he ſtopped at the chair of ſtate, and there he made a low and ſolemn reverence. He was ſo fondly attached to, and deſirous of being treated with, all the foppiſh formalities of ſtate, that he wrote to the King and council of England for leave to extend the ceremonies. "The meetings and proceedings of this counſil, writes he, albeit

Ireland was, on the commencement of Wentworth's government, under vaſt anticipations, and moreover loaded with a debt of one hundred and ſix thouſand pounds. In theſe circumſtances, Anno 1634.

albeit much for the better ſince I came, yet are they not with the civility and dignity which ſhould become the honor of his majeſty's ſervice, and the place: therefore I deſire that the orders ſet down for the privy-council of England might be ſent unto us, with this addition, that no man ſpeak covered, ſave the deputy, and that their ſpeech may not be directed one to another, but only to the deputy.

"I am commanded by my inſtructions, to call upon the nobility and others to attend the deputy upon all ſolemn proceſſions to church, and ſuch-like. This is not ſo well obſerved as it ought; and they grow generally more negligent than is fit they were: not truly, I truſt, in any diſtaſte to me—for to my perſon they give as much reſpect as I deſire from them; but I know not how, in point of greatneſs—ſome of them thinking it too much, perchance, to be tied to any thing of duty—rather deſirous it might be taken as a courteſy. It would do therefore very well his majeſty were graciouſly pleaſed by letter to ſignify what the attendance is he requires at their hands; *viz.* that the noblemen, biſhops in their rochets, and counſellors, attend the deputy upon their foot-cloths, or otherwiſe on horſeback, the judges and his learned counſel likewiſe upon theirs, upon ſuch ſolemn days as formerly have been accuſtomed; and the captains and gentry who are not counſellors, to go on along with the reſt of the company before the deputy: which I will cauſe to be entered in the council-book, and obeyed accordingly.

"The rooms of this houſe are almoſt become common, every ordinary gentleman thinking it a diſparagement to ſtay any where but in the drawing-chamber; which indeed is occaſioned in part by ſuffering the preſence to be ſo familiar, that for the moſt part it is filled with the ſervants, whilſt the maſters are within. Leſt, therefore, the King's greatneſs, albeit but in the type, become leſs reverenced than truly it ought to be, I pray to receive the like commands, that upon days of meeting none but noblemen come farther than the drawing-chamber; the gallery only free for thoſe who be of the council; and that all their ſervants ſtay in the great chamber, where they and all others are to be bare, as well as in the preſence, there being there a ſtate as well as in the other." *Carte's Life of the D. of Ormond*, fol. ed. vol. I. p. 56, *& ſeq.* *Strafford's Letters*, vol. I. p. 200, *& ſeq.*

Anno 1634. it was neceſſary to raiſe an immediate ſupply. Wentworth, by the promiſe of a parliament, procured the continuation of the voluntary contribution *. The inhabitants of the county of Cavan, and Bedell the biſhop of Kilmore at their head, remonſtrated againſt the continuance of this impoſition, and the exceſſes committed by the ſoldiers. This Wentworth conſidered as an inſolent attack on his authority, and expreſſed great indignation againſt the biſhop; but felt the neceſſity of remedying the diſorders which were ſpecified in the complaint. He was ſo induſtrious in reſtoring diſcipline, that the ignorant Iriſh, who had only conſidered the army as a grievance on account of the violences committed by the ſoldiers, now chearfully ſubmitted to that formidable inſtrument of tyranny, a ſtanding military force.

The voluntary contributions were to be continued but for two years; it had already exiſted ten, and the people were under great uneaſineſs leſt this ſhould be eſtabliſhed by cuſtom into a

* The lord Balfour and others having refuſed a former contribution, they were proceeded againſt as delinquents. On this buſineſs, Wentworth, who had not yet taken poſſeſſion of his government, writes thus to ſecretary Cook: "When I come on the other ſide, believe me I will teach both them and others better grounds of duty and obedience to his majeſty than they have ſhewn in this wanton and ſaucy boldneſs of theirs: and ſo much the more careful muſt we be to correct this peccant humor in the firſt beginning, in regard this is a great revenue, which his majeſty's affairs cannot ſubſiſt without; ſo that we muſt either continue that to the crown, or get ſomething from that people of as much value another way: wherein I conceive it moſt neceſſary to proceed moſt ſeverely in the puniſhment of this offence, which will ſtill all men elſe for a many years after; and therefore, if the King or yourſelf conceive otherwiſe, help me in time, or elſe I ſhall be ſure to lay it on them ſoundly." *Strafford's Letters*, vol. I. p. 88.

perpe-

perpetual tax *. A large ſum of money was ne- Anno 1634.
ceſſary to accompliſh the deſign of rendering the crown independent, and conſequently abſolute. This was propoſed by Wentworth to be done by a parliament. Property was at this time very precarious in Ireland: many proprietors of land could derive no title from the crown; the letters-patent of others were inſufficient in law, defective, doubtful, or not plain enough to prevent diſpute. The ſubject longed to be made eaſy by an act of parliament which ſhould bind the crown, and give them an abſolute ſecurity in their eſtates. This was agreeable to the deſigns of the deputy, who could advance his maſter's revenue by the compoſitions, and obtain from the parliament a conſiderable grant in return for ſcreening them from farther moleſtation in the poſſeſſions of their eſtates: Beſides, the two factions of Papiſts and Proteſtants, more intent on thwarting each other than in maintaining their mutual rights, were an eaſy prey to the views of a miniſter. A parliament was reſolved on. Wentworth's next care was to name proper ſheriffs, and other officers, who ſhould manage the elections in a manner that the two parties of Roman Catholics and Proteſtants being equally balanced, the ſervants of the crown ſhould throw the ſcale upon the ſide of royalty †. As he was deſirous that the large

* Subjects ought to be very careful how they give way to bad precedents: The moſt noxious privileges of princes are often eſtabliſhed on no better foundation. Charles and his miniſter Wentworth looked on this contribution, though a voluntary one, as the King's right. The deputy aſſures him, that though he was ſucceſsful to procure from the parliament a compenſation in lieu of the contribution, he ſhould take care not to conclude his majeſty's prerogative to theſe kind of levies for the future. *Strafford's Letters*, vol. I. p. 245.

† "I ſhall endeavor, writes Wentworth, the lower houſe may be ſo compoſed as that neither the Recuſants, nor yet

Anno 1634. ſum of money he hoped to obtain from the Commons ſhould not be clogged with conceſſions from his maſter, he determined to make two ſeſſions of this parliament: One to ſecure the ſupply, and the other to paſs thoſe bills he deemed proper for the crown to aſſent to*. A parlia-

the Proteſtants, ſhall appear conſiderably more one than the other, holding them as much as may be upon an equal balance; for they will prove thus eaſier to govern than if any party were abſolute. Then would I, in private diſcourſe, ſhew the Recuſants that the contribution ended in December next: if your majeſty's army were not ſupplied ſome other way before, the twelve-pence per Sunday muſt of neceſſity be exacted upon them: and ſhew the Proteſtants, that your majeſty muſt not let go the twenty thouſand pounds contribution, nor yet diſcontent the other in matters of religion till the army was ſome way elſe certainly provided for; and convince them both, that the preſent quarterly payments are not ſo burthenſome as they pretend them to be, and that by the graces they have already more benefit than their money came to. I will labor to make as many captains and officers burgeſſes as poſſibly I can; who having immediate dependance upon the crown, may almoſt ſway the buſineſs betwixt the two parties which way they pleaſe. In the higher houſe your majeſty will have, I truſt, the biſhops wholly for you; the titular lords, rather than come over themſelves, will put their proxies into ſuch ſafe hands as may be thought of on this ſide." *Strafford's Letters*, vol. I. p. 186, *& ſeq.*

* "There being ſome of your majeſty's graces, writes Wentworth, which being paſſed into laws might be of great prejudice to the crown, and yet it being to be feared they will preſs for them all, and it is uncertain what humor the denying any of them might move in their minds, I conceive, under favor, it would be much better to make two ſeſſions of it, one in ſummer, the other in winter; and in the latter to enact ſo many of thoſe graces as in honor and wiſdom ſhould be judged equal; when the putting aſide of the reſt might be of no ill conſequence to other your royal purpoſes. If the parliament ſhould meanly caſt from them the mighty obligations the nation owes to your majeſty, your majeſty's affairs can never ſuffer leſs by their ſtarting aſide, when the general peace abroad admits more united counſel in your majeſty, and leſs diſtracted thoughts in your miniſters, to chaſtiſe ſuch a forgetfulneſs, to call to their remembrance, and to enforce from them other and better duties than theſe."

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ment in Ireland was an excellent object for miniſterial craft to work on. The natives had been ſo long deprived of this privilege, and ſo negligent of their records, that they were obliged to ſend into England for precedents concerning the cuſtoms of parliament *. Anno 1634. Ruſhworth, vol. II. p. 209, & ſeq.

* Wentworth gives the following account of the manner in which he abridged the privileges of the ſubject: "Previous to the meeting of parliament, the lord-chancellor had moved, that the lords of the pale, according to the cuſtom of former parliaments, might be conferred withal concerning the matters therein to be propounded: I preſently ſilenced it by a direct and round anſwer, that ſhould we do ſo, I feared his majeſty might judge we had exceeded our directions, opening his council to any but ourſelves, without his ſpecial warrant. Within ſome four days after, the earl of Fingal told me, the report went there would be a parliament, and that their lordſhips of the pale had been accuſtomed to be conſulted with before thoſe meetings, to aſſemble and take advice together what to propound for the good of the people. My anſwer was quick: I told him, that the calling of parliaments was the peculiar of kings, and ſo locked up in the ſacred breaſt of his majeſty, that as it were want of good manners in me his ſervant to pry into, or impart his counſels, ſooner than ſhould in his own good time be revealed unto me; that I muſt tell him, I conceived his majeſty might judge it with ſome more reaſon a high preſumption in him, or any other private man, to elect themſelves inquiſitors over his gracious purpoſes towards his ſubjects, which were ſet with ſo much love and juſtice, in ſo much height and prefection, as could not by them all put together be ſo well diſpoſed and guided as they were already by thoſe clearer lights of his own wiſdom and goodneſs; that aſſuredly his majeſty would reject with ſcorn and diſdain all ſuch foreign inſtructions between him and his people; neither muſt his lordſhip or any other expect his majeſty would conſult, in the calling of his people, any, or in other manner than he ſhould judge fit and convenient; that therefore himſelf and the reſt were to wait the times and the ſeaſons, and not think of applying any thing in the calling of parliaments to themſelves, as not belonging to them, nor indeed the appointing of any other meetings, or other conferences, to be had by any ſubjects in thoſe public affairs, but in their open aſſemblies of parliament, which his majeſty would graciouſly vouchſafe to hear, containing their diſcourſe

Anno 1634. On the firſt meeting of the parliament, the deputy, in a very magiſterial manner, acquainted

diſcourſe within the bounds of ſobriety and moderation, and to give them ſuch anſwers as were fit for the reſt: His own counſels were ſufficient to govern his own affairs and people, without borrowing from any private men whatſoever; whoſe duty it was not *altum ſapere*, as to look upon theſe deep myſteries of ſtate before thereunto called by his majeſty."

Wentworth had in this buſineſs of an Iriſh parliament recommended an inviolable ſecrecy to the council of England, that he might have an eaſier prey of this unguarded people, and aſcertain his future favor from eſtabliſhing government on the King's own principles in Ireland: But he did not find the council ſo abjectly devoted as to be very forward to deſtroy their own liberties to the advancement of his private deſigns. He writes, he was fain to work off ſome little difficulties; that underſtanding, by the maſter of the rolls and Sir George Radcliffe, that the council grounded their opinion much upon pleaſing the people; that they moved to have the bill of monopolies propounded; divers other bills of grace; and inſiſted much upon having the general pardon go over with the ſubſidies, as good inducements to content the houſes; that they were not inclinable to ſend the bill of ſubſidies with blanks, but to grant two in certain; that upon eſtimate made of an entire ſubſidy to be thirty thouſand pounds, they grew to forecaſt, that in caſe theſe ſubſidies were anſwered by one in a year, whereas now the contribution was but twenty thouſand pounds, there would be ten thouſand pounds above the ordinary charge; and ſo, conſequently, for fear all ſurpluſage ſhould be ſweeped away upon ſuit in England, the coin tranſported, to the impoveriſhing the kingdom, that it was neceſſary to proportion the ſupply ſo even as there might not be any to ſpare, which might be effected by enacting the payments to be but one third part half yearly.

"I, added Wentworth, not knowing what this might grow to, went inſtantly unto them, when they were in council; told them plainly, I feared they began at the wrong end, thus conſulting what might pleaſe the people in a parliament, when it would better become a privy-counſellor to conſider what might pleaſe the King, and induce him to call one; that albeit I had not in particular as yet to reſolve them what it was his majeſty would propound, yet I knew, as all other great and wiſe princes, his majeſty expected to be truſted—nor did ever any deſerve it better from his people; that he would not in any caſe admit of conditions, or be proceeded withal

both houſes what was expected from them *: That one hundred thouſand pounds debt was to Anno 1634.

withal by way of bargain or contract; that he would be provided for as the head, and care for his people as members, through all the expreſſions of a gracious and good king, but ſtill according to the order of reaſon, nature, and conſcience —himſelf firſt, his people afterwards; that as for the bill of monopolies, it was not to be granted at all—the other bills of grace not ſeaſonable now.

* As ſome of Wentworth's popular ſpeeches have been quoted in this Hiſtory, the reader perhaps will not be diſpleaſed to be acquainted with his eloquence in the miniſterial ſtrain. He began his oration to the parliament in the true prerogative ſtyle, after the manner of the Stewart family. "Albeit, ſaid he, the reaſons leading and reſolutions ſet in aſſembling of parliaments be the hidden ſecrets, the privileged peculiars of kings, for which they are in no kind accountable, nor ought any ſubject, uncalled, to intermeddle; yet is his majeſty graciouſly pleaſed that I thus ſet forth the grounds of this preſent meeting faithfully and evidently before you; and if temples conſtituted by Jupiter and the Pagans to their Apollo, and thoſe other gods of the greater volume, were (as the architect rules it) to be left *ſub dio*, without any other than heaven for a covering, *quoniam horum Deorum, & ſpecies & effectus in aperto mundo atque lucente præſentes videmus*, then ſure, with far better reaſon than thoſe their fictitious gods, are the princely and juſt intendments of my gracious and great maſter to be by us all this day celebrated under the ſun, conſidering that if we, who have the happineſs to gather the bleſſed fruits of his government, could prove ſo ingrate as not to acknowledge them, yet ſhall their own weight and piety convey them along, proclaim him aloud to future ages famous even among the beſt of kings." After this bombaſt flouriſh, Wentworth ſtated the debts of the crown, and conditions of the revenue; he urged the great merits of the King in his government, and the obligations which lay upon the parliament for granting a ſupply. "There muſt be a ſtanding revenue, continued he, (mark it well) provided by you to ſupply and ſettle the conſtant payments of the army: For it is far below my great maſter to come at every year's end, with his hat in his hand, to entreat that you would be pleaſed preſerve yourſelves.—Next let me adviſe you, ſuffer no poor ſuſpicions or jealouſies to vitiate your judgments; much rather become you wiſe by others harms. You cannot be ignorant of the misfortunes theſe meetings have ſeen of late

Anno 1634. be diſcharged, and a yearly revenue of twenty thouſand pounds ſettled for the payment of the army. With this he intimated the King's reſolution to make two ſeſſions; the firſt for his own buſineſs, and the ſecond for the public; but withal gave ſtrong aſſurances of his majeſty's intention to comply with their deſires, provided they tacked no conditions to their ſupply.

The majority of this parliament ſeem to have been deficient in abilities, rather than inclination,

late years in England; ſtrike not therefore upon the ſame rock of diſtruſt which hath ſo often ſhivered them: For whatever other accident this miſchief may be aſſigned unto, there was nothing elſe which brought it upon us but the King's juſt ſtanding to have the honor of our truſt, and our ill-grounded obſtinate fears which would not be ſecured. This was that ſpirit of the air that walked in darkneſs, abuſing both; whereon if once one beam of light and truth had happily reflected, it had paſſed over as clouds without rain, and left the King far better contented with his people, and them much more happy (albeit as they are) thanks be to God and his majeſty, they are the happieſt in the world.—Finally, I wiſh you had a right judgment in all things; yet let me not prove a Caſſandra among you, to ſpeak truth and not be believed: However, ſpeak truth I will, were I to become your enemy for it. Remember therefore that I tell you, you may eaſily make or marr this parliament. If you proceed with reſpect, without laying cloggs and conditions upon the King, as wiſe and good ſubjects ought to do, you ſhall infallibly ſet up this parliament eminent to poſterity, as the very baſis and foundation of the greateſt happineſs and proſperity which ever befel this nation. But if you meet a great king with narrow and circumſcribed hearts, if you will needs be wiſe and cautious above the moon, remember again that I tell you, you ſhall never be able to caſt your miſts before the eyes of a diſcerning king; you ſhall be found out; your ſons ſhall wiſh they had been the children of more believing parents; and in a time when you look not for it, when it will be too late for you to help, the ſad repentance of an unadviſed breach ſhall be yours, laſting honor ſhall be my maſter's." *Strafford's Letters*, vol. I. p. 286, *& ſeq.*

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to preſerve their power and independency. The Commons were on the point of rejecting the recorder of Dublin for their ſpeaker, who had been recommended by the deputy, but did not inſiſt on this point. Such was their ignorance of the privileges of parliaments, that they ſubmitted to the documents of Wentworth, who in very arrogant language told them, it was their duty to ſubmit to the King's choice; and quoted the example of the Engliſh parliaments for a conſtant acquieſcence in this point. The diviſion on the firſt queſtion convinced him, that he had ſucceeded in his plan of balancing equally the two parties of Roman Catholics and Proteſtants; the Recuſants ranging themſelves on one ſide, and the Proteſtants on the other. The queſtion was moved by the Recuſants: It was for purging the houſe; and was carried againſt them by eight voices only. On this diſcovery, Wentworth writes, that he grew confident of ſucceſs, and moved for the ſupply the next day, having previouſly prepared the council, and directed them in what manner to behave; withal charging them to ſpeaking earneſtly for ſix ſubſidies, and to prepare their friends to uſe all their power and credit to gain the point. Each man's behavior, he ſaid, in this buſineſs he ſhould tranſmit to the King. On this unexpected propoſal, the Recuſant party moved a ſtay till the houſe ſhould be purged of thoſe members who had, by fraud and connivance, gained an undue election; but the Proteſtant party, determined to thwart their enemies, cloſed in with the propoſal, and the ſupply was carried by twenty-eight voices. This important point gained, the deputy and his dependants found means to ſpin out the ſeſſion without concluding any thing, or paſſing other Anno 1634.

laws

Anno 1634. laws than the acts of ſubſidies, and one more, which was alſo to bring money to the crown, the confirming compoſitions which ſhould be made upon defective titles.

The Lords, according to the gentle nature of nobility, were not behind-hand with the Commons in teſtifying their obedience to the crown, and obſervance of the deputy; nor did the deputy ſhew leſs inſolence of office, or treat them with leſs arrogance, than he had uſed to the Commons. They had paſſed laws, and given orders to the attorney-general to draw them up in form, to be tranſmitted for the King's approbation. Wentworth fired at this encroachment on his authority, but ſuppreſſed his reſentment till the bill of ſubſidies had paſſed both houſes: He then, in a tone of high ſuperiority, gave the Lords to underſtand, that they had proceeded beyond the limits of their power; he intimated, that he imputed it to their ignorance, and not to any indirect purpoſe; he ſhould content himſelf with entering his proteſtation againſt it in the King's behalf, which he required might be recorded in the houſe; and deſired them for the future not to exceed the power which was left them by Poyning's Act *—a liberty only to offer

* Noy the attorney-general had given his advice, that the parliament ſhould have power to paſs acts, and tranſmit them to England. Wentworth oppoſed this popular meaſure, and repreſented to the King, that it would be a great injury to his prerogative, gotten by the wiſdom of former ages: For now ſhould they grow importunate in their propoſals, the deputy might ſilence them by giving them to underſtand, that they incurred danger by diſcourſing on matters to which they were not authorized by his majeſty's warrant. Carte, though a man of moſt arbitrary principles, reaſons thus of this ſtatute, called Poyning's Act: "The Iriſh may think themſelves downright ſlaves by this act, which reſtrains them from making any law, or taking any meaſures, to redreſs their grievances;

by petition to the deputy and council ſuch conſiderations as they ſhould think good for the commonwealth, by them to be tranſmitted or ſtaid. The Lords, far from ſhewing themſelves angry at the manner or the matter of the deputy's oppoſition, acquieſced with his dictates, and declared it had not been their intention to offend. Both houſes had preſſed much for the graces, eſpecially the law of England for threeſcore years poſſeſſion to conclude the rights of the crown: In the lower houſe, ſome had ventured to urge the King's promiſe; the Commons had named a committee to attend the chancellor, and other law-officers appointed by Wentworth, to make ready thoſe laws which were to be tranſmitted at the next meeting. This credulous aſſembly imagined they were on the point of reaping the fruit of their generoſity and unlimited complaiſance to the crown, and inceſſantly importuned the deputy and council for the performance of what had been largely promiſed in the King's name. The deputy called the council together, and finding them complaiſant enough to ſhare with him the odium of being guilty of a baſe deceit, plainly told the committee, that they ſhould not give way to the tranſmitting of the law of threeſcore years, nor any other of the graces which were prejudicial to the power of the crown *. Anno 1634.

ances; ſubjects them to the will of perſons who have different intereſts from theirs; diſables them from making application to the King, but by the intervention and mediation of his miniſters, generally ſent from another kingdom, too jealous of the proſperity and commerce of Ireland." *Strafford's Letters*. vol. I. p. 269. *Carte's Life of Ormond*, vol. I. p. 80.

* Wentworth, in his account of the tranſactions of this parliament, writes, that there fell a breach between the two houſes, which kept them aſunder all the ſeſſion: The Commons

Anno 1634. I have thought it neceſſary to be full in my quotation of the account Wentworth gives of the management of this parliament, ſince it expoſes to the public the infamous artifices of ſtateſmen, and ſhews that parliaments are noxious things

mons would not confer with the Lords, unleſs they might be covered as well as their lordſhips, which the others would by no means admit. "For my part, adds he, I did not lay it very near my heart to agree them, as having heretofore ſeen the effects which follow when they are in ſtrict underſtanding, or at difference among themſelves. Beſides, I ſaw plainly, that keeping them at diſtance I did avoid their joining in a petition for the graces, which infallibly they would have done, which now comes only ſingly from the Commons. I conceive it will be very eaſy, the next ſeſſion, either to agree or keep them ſtill aſunder: I deſire there may be a thought beſtowed upon it at ſome leiſure, and let me have my directions."

In the ſecond ſeſſion of this parliament, the Lords having proceeded ſome ſteps to bring one Sir Vincent Gookin, an offender, to juſtice, Wentworth told them, that they might not aſſume a judicature of any thing which had not been firſt tranſmitted as good and expedient by the deputy and council; for ſo Poyning's Act preſcribed, not only in all acts, but in every ordinance of parliament.—"Thus far I went, added he, to prevent their gaining of judicature, wherein I did believe his majeſty was not ſo fully reſolved in the convenience and fitneſs thereof by any effect it hath produced, ſince it was reſtored to the houſe of parliament in England. Yet I do ſee that unleſs ſome ſtrict courſe be held againſt him to bring him to judgment, they will be much diſcontented; that the offence will bear a deep fine to his majeſty; and that Sir Vincent Gookin, a very rich man, will be able to undergo it. Therefore, to ſtill them from farther prying into the powers and uſage of parliaments, I do humbly adviſe that there may be diligence uſed on that ſide to ſend down a ſerjeant at arms to apprehend him; and that he may under ſafe cuſtody be brought back to us here, where the attorney will have an information ready to put in againſt him in the Caſtle-chamber. So may he in a ſhort time come to ſentence; and yet by this means the queſtion in a parliamentary way be altogether ſilenced, with ſatisfaction to them, and with honor and benefit to his majeſty." *Strafford's Letters*, vol. I. p. 279. 349.

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when they become the dupes of miniſters; that aſſemblies inveſted with ſuch authority ought carefully to weigh and examine the ſpecious pretences of thoſe tools of power, leſt, deluded by the baſe arts of king-craft, they become the ſuicides of their own liberties, and the fatal inſtrument of deſtroying thoſe rights they were conſtituted to defend. Anno 1634.

The deputy thus obtained from the parliament a ſum beyond his fondeſt expectations, and that without any conditions ſtipulated for the juſt privileges and honors of that aſſembly, or laws paſſed for the eaſe and welfare of the people. The graces, on which they had already forgiven a debt of one hundred and fifty thouſand pounds, and contributed one hundred and ſixty thouſand pounds; the graces, on the hopes of which being reſolved into confirmed laws they had moreover parted with ſix ſubſidies, were almoſt all entirely laid aſide *, and the King rendered abſolute by the uncertain ſtate of their conſtitution, and the independance he had attained by their indiſcreet bounty. Of all the graces, that which excluded the King's title after threeſcore years poſſeſſion, according to an act which had paſſed in the Engliſh parliament in the twenty-firſt of James's reign, was the moſt eagerly deſired by the Iriſh, and particularly mentioned in the addreſs of the Commons to the deputy as the King's expreſs promiſe. This was

Strafford's Letters, vol. I. p. 311.

* Among this number was that which excluded the accuſations and teſtimonies of perſons notoriouſly infamous, and convicted of capital offences, for convincing evidence to condemn any ſubject. We have already ſeen how this power was exerted to the deſtruction of the family of the Byrnes; the denying, therefore, the paſſing the deſired grace into a confirmed law, ſhews as corrupt and inordinate an affection for unbounded power, as can be inſtanced in hiſtory.

Anno 1634. rejected by Wentworth, as a peculiar diſadvantage to his farther deſigns on that country. Nothing paſſed in the ſecond ſeſſion, but ſome laws to regulate the police, ſome relative to the undertakers in the ſeveral plantations, the denization of the Scots, ſome favorable to the church*, and two ſtatutes of uſes and wills, which encreaſed the King's power and profit in one of the moſt exceptionable branches of his prerogative, of wardſhip†. The infamous treatment this parliament met with, after they had yielded the full grant of what was demanded of them from the crown, and this on the faith of miniſterial aſſurances, illuſtrate the propriety and utility of that cautious diffidence, which, during the firſt period of this reign, marked the counſels of the Engliſh ſenate; a conduct which has been attacked in a moſt wanton and unjuſtifiable manner by many writers of thoſe times.

The manner in which ſubſidies had been raiſed in Ireland was after the ancient cuſtom of theſe taxes in England: a certain ſum impoſed upon the ploughed lands. This Wentworth, by an exertion of power, aboliſhed; and appointed commiſſioners to levy the ſubſidies out of lands and goods. The frighted Commons, not knowing to what ſum their grant, by this manner of

* One of theſe was to enable reſtitution of impropriations, tythes, and other eccleſiaſtical rights to the clergy, with a reſtraint of alienating the ſame, and direction of preſentation to churches. *Carte's Life of Ormond*, vol. I. p. 72.

† Wentworth writes thus of them: "Howbeit we ſet a fair ſtyle upon theſe laws, as beneficial only for the commonwealth, yet are there of them concerning fraudulent conveyances and wills, which, I dare confidently affirm, will be worth the King at leaſt four thouſand pounds a-year in his court of wards and alienations; a point my maſters of the houſe dream not of."

levying,

levying, might amount, offered to raiſe each subſidy from thirty to forty thouſand pounds a-piece, excluſive of the nobility and clergy, provided they might have liberty to raiſe them by commiſſioners of their own *. With this large Anno 1634.

* "This being the courſe, wrote Wentworth, which I did deſire to lead them to, I gave them encouragement to go on with the conſideration thereof, ſo as being haſtened with their own fears, they come to that at the firſt word which I ſhould have been glad might have been wrought at laſt with all our labors. I told them I would adventure to accept of their offer for the firſt four ſubſidies, but for the laſt two, in regard there was to be but one of them paid in one year, I would expect they ſhould make them up forty-five thouſand pounds a-piece, provided they ſhould make it up neat money for the whole ſix ſubſidies: all which the next day the houſe, with all imaginable alacrity, aſſented to, leaving them the whilſt the beſt contented that is poſſible, and ourſelves free from their ſcandal and out-cry. We have likewiſe proceeded to the taxing the nobility, which comes to ſix thouſand pounds ſterling; the clergy will, I truſt, be about three thouſand pounds, ſo as by this time you ſee theſe ſix ſubſidies will be three hundred thouſand pounds ſterling good in his majeſty's Exchequer; and the ſubſidy, which was never yet aſcertained in this kingdom, will now ſettle at fifty-four thouſand pounds ſterling; and I did purpoſely draw them up for the two laſt ſubſidies to five thouſand pounds more a-piece than the reſt, that I might ſo leave them precedents to the crown for future times."

The houſe being divided into two factions, of Proteſtants and Papiſts, was the apparent cauſe which enabled Wentworth to carry every point for the crown in ſo triumphant a manner. He was ſo confident to render this parliament ſubſervient to all the deſigns of the crown, that he adviſed the keeping it on foot by a prorogation, to give a ſanction to other important projects. "It can do no hurt, ſaid he, conſidering it can exerciſe no power during the prorogation, and may at any time before the meeting be blown over with the leaſt breath from his majeſty." To this the council of England anſwered, that the King held his reſolution not to have it prorogued, but diſſolved at Eaſter; it being a known experiment that parliaments never grow better by ſitting long. "As for that Hydra, wrote Charles in a previous letter to Wentworth, take you good heed, for you know that here I have found it as well cunning as malicious. It is true that

Anno 1634. Strafford's Letters, vol. I. p. 93. vol. II. p. 8, & ſeq.

grant, the greateſt which ever was known to be raiſed in Ireland, Wentworth emancipated the crown from a debt of more than one hundred thouſand pounds *; bought off all the incumbrances on the revenue, which, by the commiſſion on defective titles, licenſing ale-houſes, the ſale of tobacco, the tranſportatation of pipe-ſtaves, the making the crown ſole merchant of the commodities of ſalt †, and the increaſe of the money ariſing from the court of Wards, made an improvement of forty thouſand pounds in the yearly income ‡. This buſineſs completed,

your grounds are well laid, and I aſſure you that I have a great truſt in your care and judgment; yet my opinion is, that it will not be the worſe for my ſervice, though their obſtinacy make you to break them, for I fear they have ſome grounds to demand more than it is fit for me to give." *Strafford's Letters*, vol. I. p. 233.

* This debt was paid with ſcandalous defalcations, and the Commons were again rendered the dupes to take off the odium from the crown. "The Commons-houſe, wrote Wentworth, hath in their ſub-committee proceeded to conſider all the debts of the crown, together with the ſeveral natures and conditions thereof; and by means of ſuch intelligence as I held amongſt them, concluded ſuch an advice in each particular as better could not be deſired, ſo as I truſt we ſhall diſcharge theſe debts better cheap than you could have looked for on that ſide, and yet not only draw his majeſty, but ourſelves too, forth of their blame or hard conceit, by ſhewing them the opinion and pleaſure of the houſe, leading and concluding the courſe which is to be held in the diſcharge thereof. So here's an end of this matter, and a very excellent uſe made of them to the advantage of the crown." *Strafford's Letters*, vol. I. p. 402.

† "Salt, writes Wentworth, is of ſo abſolute neceſſity, as it cannot ſtay upon his majeſty's hand, but muſt be had whether they will or no, and may at all times be raiſed in price, ſo far forth as his majeſty ſhall judge to ſtand with reaſon and honor; witneſs the gabell of ſalt in France." *Strafford's Letters*, vol. I. p. 193.

‡ According to Wentworth, the crown had got more by the laws which were enacted this parliament than the ſubſidies could be valued at. *Strafford's Letters*, vol. II. p. 18.

the

the next ſtep taken was to reſume the iniquitous attempt on the lands in Connaught, Clare, and the other provinces. This was directly contrary to the promiſe preſcribed by the graces, for enrolling former ſurrenders, and paſſing new patents of eſtates, on the faith of which the crown had already raiſed ſo large a ſum of money. The ſame project had been entertained by the miniſtry in the reign of James; it was then laid aſide as dangerous: but the crown had now a conſiderable army on foot, the Exchequer was full, and the deputy a man determined to run all lengths in rendering Ireland a fruitful ſource of riches to his maſter. The King's title was aſſerted from the conqueſt of Henry II. and the juries of Roſcommon, Slego, and Mayo, on aſſurances which were given them that they ſhould have eaſy compoſitions, found the right of the crown to thoſe particular counties, as well as to the province in general. The county of Galway, ſupported by the earl of Clanrickard, a man of great property and power in thoſe parts, reſented the indignant uſage, and proved refractory. The furious deputy took fire at the affront, and cauſed the jury to be proſecuted for a combination with the ſheriff to defeat the King of his right: They were tried in the Caſtle-chamber, and fined four thouſand pounds each, ſentenced to impriſonment till the fine was paid, and to make an acknowledgment on their knees of their offence *. Anno 1634. Carte, vol. I. p. 82.

The terrors of this ſeverity made thoſe of Clare

* The county of Galway ſending agents into England to ſolicit their affairs, they were, on their return to Ireland, impriſoned by the deputy for leaving the country without permiſſion.

Anno 1634. and Ormond * acknowledge the King's claim, and depend on his mercy for the renewal of their patents, which increaſed the revenue twenty thouſand pounds a-year. Moreover, the city of London was ſued for non-performance of articles in the plantation of Londonderry and Colerain, fined in the Star-chamber ſeventy thouſand pounds, and the lands adjudged to be forfeited; this was again an addition of eight thouſand pounds a-year. The crown rendered thus wealthy by the treachery and tyranny of the deputy, his next ſtep was to exert that vigor the government had acquired, in over-turning the conſtitution of the church, eſtabliſhing the mode of his faith, and exalting hierarchical power to the ſame pitch it had attained in England. By the ſole authority of the deputy, the High-commiſſion court was erected immediately after the diſſolution of the parliament. The zeal he had expreſſed for the church was the loadſtone with which he had drawn the attention and confidence of his maſter: his ſucceſs in it was the cement with which he hoped to fix his affection. From the firſt of his apoſtacy, he had knit himſelf in a cloſe confederacy with Laud, as the man from whoſe abſolute ſway over the King he had moſt to dread, and from whoſe unbounded intereſt he had every thing to hope. Thus, whilſt he flattered Charles with the proſpect of an uncontrouled unlimited authority, he canted with Laud in his own ſtyle; That ſacrilegious hands had carried away the patrimony of the church, and left God's portion naked to poſterity; that it could not be recovered unleſs as violent and extraordinary means were

Strafford's Letters, vol. I. p. 151, 381.

* The lord Ormond was very officious and inſtrumental to the deputy's ſucceſs in this buſineſs,

uſed

uſed for the raiſing it again as there had been for the pulling it down. This was the kind of language he continually uſed in his correſpondence with this prelate; at the ſame time conveying through him intelligence to the King, and thoſe kind of inſinuations which moulded him to all the purpoſes of his private views. Wentworth, not only in paſſing the new patents, took particular care of the church, but in the moſt oppreſſive manner obliged proprietors, by arbitrary deciſions in the Caſtle-chamber, to relinquiſh the advantages they had gained by former leaſes, after the affair had been otherwiſe determined by a trial at common law; and this by the ſingle virtue of a letter of direction from the King to proceed in all queſtions concerning the patrimony of the church, and that ſuch cauſes ſhould be determined by commiſſioners appointed by the deputy, and not elſewhere *. Anno 1634. Strafford's Letters, vol. I. p. 380, 251, & ſeq.

* The earl of Cork, a very opulent and powerful nobleman, was proceeded againſt in this manner in the Caſtle-chamber: he was not only compelled to relinquiſh upwards of two thouſand a-year to the church, but underwent a ſevere fine, and was commanded to pull down a very fine monument which he had built at a great expence in the cathedral of St. Patrick at Dublin, becauſe Laud took offence that it was too near, and elevated above, the high altar.

On this ſubject of determining cauſes, Wentworth writes in the following manner: "I find that my lord Faulkland was reſtrained by proclamation not to meddle in any cauſes betwixt party and party, which certainly did leſſen his power extremely. I know very well the common lawyers will be paſſionately againſt it, who are wont to put ſuch a prejudice upon all other profeſſions, as if none were to be truſted or capable to adminiſter juſtice but themſelves: yet how well this ſuits with monarchy, when they monopolize all to be governed by their year-books, you in England have a coſtly experience: and I am ſure his majeſty's abſolute power is not weaker in this kingdom, where hitherto the deputy and council-board have had a ſtroke with them." "I know no reaſon, writes Wentworth to Laud, but you may as well rule

Anno 1634. The opulency of the clergy being thus provided for, the next point was to bring the church of Ireland to a perfect conformity in her doctrine and discipline to that which was established in England. A convocation being called to manage this business, several members made material objections to the body of canons they were required to subscribe. The lower house appointed a select committee to consider the matter. Wentworth understanding that the judgment of this ecclesiastical assembly was not likely to be favorable to the design in hand, sent for the committee, and after reprimanding them in an insolent manner for their presumption in attempting to determine articles of faith without the privity and consent of state or bishop, he enjoined dean Andrews, chairman of the committee, not to report any of their transactions to the house of Commons, which was then sitting; and commanded dean Lesly, their prolocutor, that if any of them propounded such a question not to put it to the vote, but break up the sitting. On this tyrannical proceeding, it was moved to petition for a free synod; but such was the terror which the deputy's violence and severity occasioned, that no one member would take upon him to draw it up or present it. Wentworth not approving of the canons which the complying pri-

Carte's Life of Ormond, vol. I. p. 77, & seq.

the common lawyers in England as I, poor beagle, do here; and yet that I do and will do, in all which concerns my master's service, upon the peril of my head. I am confident that the King, being pleased to set himself in this business, is able, by his wisdom and ministers, to carry any just and honorable action through all imaginary opposition, for real there can be none; that to start aside for such panic fears, phantastic oppositions, as a Prynne or an Elliot shall set up, were the meanest of folly in the whole world." *Prynne's Trial of Laud. Strafford's Letters*, vol. I. p. 201, 173.

mate

mate Uſher by his command had undertaken to frame, drew them up himſelf, more exactly after thoſe of England, obliged the primate to get it voted according to this form in the upper houſe: and by the force of his authority, and the puſillanimity of the members of the lower houſe, it was carried there, one individual only diſſenting. Notwithſtanding ſo outrageous an inſult on Law and Liberty, ſuch was the confidence of this madman, that he wrapped himſelf up in the opinion of an entire ſecurity, on the bare ſhelter of a letter from the King approving theſe exploits. Anno 1632.

Thus aſſured, his conduct during the courſe of his government was an uninterrupted ſeries of exertions of deſpotiſm; and his whole behavior ſavored of the higheſt ſtrain of frantic inſolence. He reprimanded the earl of Kildare, the firſt peer of Ireland, for oppoſing his propoſitions to the parliament; and afterwards obliged him, without any legal proceeding, to ſubmit his title to an eſtate to his deciſion, and impriſoned him a whole year on this buſineſs. The lord Mountnorris, a nobleman who had long held employments under the government, an officer in the army, and now vice-treaſurer, being diſguſted with the deputy's behavior, ſpoke ſomething ſlightingly of him at the chancellor's table *: He was for thoſe

* The charge againſt Mountnorris was this: On being told that a kinſman of his had by accident hurt the deputy's foot, he having the gout, the lord Mountnorris ſaid, "Perhaps it was done in revenge of that public affront my lord deputy did him formerly; but I have a brother who would not have taken ſuch a revenge." The words ſpoken by this nobleman, according to Clarendon's relation, were as follow: Wentworth had given Mountnorris's kinſman a blow for having accidentally hurt his foot; which being ſpoken before Mountnorris at the chancellor's, he obſerved, that the gentleman had a brother who would not have taken ſuch an affront.

Of

Anno 1634. words hurried before a court-martial, without knowing his crime, tried for mutiny againſt his general, and in the ſpace of two hours condemned to die. The King gave him his life, but he was diſmiſſed from the army, obliged to make ſubmiſſion to the deputy, and acknowledge the juſtice of the ſentence; he was impriſoned for three years. Nor were theſe all the ſeverities he met with from Wentworth, who in an illegal manner put him out of the poſſeſſion of an eſtate he had enjoyed for ſeveral years.

Carte's Life of Ormond, vol. I. p. 86. Ruſhworth, vol. II. p. 26. Strafford's Letters, vol. II. p. 230, 252, 307.

Sir Piers Croſby had voluntarily ſerved, with great reputation, in the expedition to the iſle of Rhee; to him was attributed the principal means of ſaving the Engliſh forces in their retreat. He had for theſe reaſons been made colonel of one of the ſtanding regiments in Ireland, and counſellor of ſtate. This gentleman reſenting the high manner in which things were carried in parliament, exerted himſelf vigorouſly againſt the meaſures of the crown. Wentworth ſequeſtered him from the council-board; and a paper ſoon after coming out, which reflected on the conduct of the deputy, Sir Piers was by his order arreſted by the captain of his guard, and committed to priſon; whilſt Sir Philip Manwaring, the ſecretary of ſtate, broke into his ſtudy, rifled his papers in hopes of finding a copy of the libel. Sir Piers was afterward, by the King's direction,

Of the witneſſes againſt Mountnorris was the lord Moor, who being of the court-martial, was at the ſame time evidence and judge. The King deprived Mountnorris of all his offices, and beſtowed the vice-treaſurerſhip upon Sir Adam Loftus, a creature of Wentworth's, and one who had been an evidence againſt Mountnorris. *Nalſon*, vol. II. p. 59. *Strafford's Letters*, vol. I. p. 499, *& ſeq.* *Clarendon's Hiſt.* vol. I. p. 174.

removed

removed from the council-board *; and, on another ſuſpicion of the ſame kind, he and the lord Mountnorris, with the lord Eſmond and others, were proſecuted by the deputy in the Star-chamber in England †. The earl of Holland being neceſſitated, to his great regret, to give a teſtimony on oath on the converſation which had paſſed between him and Croſby on Wentworth's particular, a great fine and damages, according to the cuſtom of this court, was given againſt him: He would have abſconded, but the implacable deputy urged the King to iſſue out a warrant to apprehend him, and keep him in cuſtody till he had anſwered the information lodged againſt him in the Star-chamber. Anno 1634. Ruſhworth, vol. II. p. 332.

Adam viſcount Loftus of Ely, a peer of Ireland, and the chancellor of the kingdom, was impriſoned by Wentworth, and obliged to deliver up the great ſeal, for not ſubmitting to an arbitrary decree of the deputy and council, on a pe-

* The earl of Ormond, who had ſeconded with great zeal every motion from the court, was made a counſellor in his room.

† The ſubject of the proſecution was, that the defendants had ſpread a report that one Eſmond died of ſome blows he received from the lord-deputy. In Laud's ſpeech in the Star-chamber on this occaſion, he ſaid, "That as kings were lively pictures of God drawn ſhort, ſo deputies were repreſentations of kings. The ſtate could not be ſafe unleſs every one of its officers were upheld in their authority; and thoſe who reported any circumſtance againſt them ought to be puniſhed, whether the report was true or falſe." Finch, the keeper, ſaid ſomething to the ſame purpoſe. This doctrine, that a libel is not leſs penal for being true, firſt broached in the Star-chamber, has ſince been introduced in the King's-Bench.

The ſentences of Cottington, Finch, and Laud, were ſevere againſt all the defendants. The lord Mountnorris eſcaped, becauſe nothing could be proved againſt him. *Ruſhworth*, vol. III. p. 891, *& ſeq.*

tition

Anno 1634. tition of the chancellor's father in-law, Sir John Gifford *. This act of power was even contrary to his inſtructions; for in them it was regulated, that the chancellor might appeal from the deputy and council to the King: But in all theſe undue exertions, Wentworth was ſtrongly abetted by the King, whoſe whole conduct in regard to Ireland was directed by wires managed by the deputy, and drawn through the channel of Laud.

Larrey, vol. I. p. 187.

The Dutch were at this time making great advances in commerce, and a kind of rivalſhip ſubſiſted between them and the ſubjects of Great Britain in the article of trade; nevertheleſs, theſe republicans were ſtrongly favored by the anti-courtiers in England, and thoſe whoſe bias was at all on the ſide of Liberty. On the contrary, the high monarchical and miniſterial faction were as much attached to Spain †. Charles ſtill fondly inclined to that admired ſeat of regal ſublimity, and was ſhocked with the independent ſpirit of the haughty Dutch; who, notwithſtanding all prohibitions to the contrary, ſtill perſiſted to fiſh upon the Britiſh coaſt, and at length aſſerted a right founded upon immemorial poſſeſſion. This produced a literary controverſy between the famous Hollander, Hugo Grotius, and the Engliſh

* This petition was in favor of the chancellor's wife, on a difference between her and her huſband, concerning the poſſeſſion of an eſtate. Wentworth was accuſed of a love-intrigue with this lady, for whom he exerted himſelf with ſuch violence. On her death, ſeveral amorous letters were found in her cabinet from him. Among other things which he alleged as heinous crimes againſt the chancellor, was the giving a negative voice on the voluntary contributions for the army. *Rushworth*, vol II. p. 725.

† The Spaniſh pirates taken on the coaſt of Ireland were treated by Wentworth with great lenity and indulgence. *Strafford's Letters.*

Selden,

Selden, two men eminent for their learning, for their oppoſition to the encroachments of power, and their ſufferings from the tyrannical government of their reſpective countries. The book written by Grotius was entitled *Mare Liberum*; and the anſwer to it by Selden, which aſſerts the excluſive right the Kings of England had to the dominion of the ſeas, *Mare Clauſum*. Charles readily embraced a plauſible pretext to quarrel with the Dutch, and at the ſame time to put the finiſhing ſtroke to that new model of government, which he, with his two miniſters Wentworth and Laud, had in a manner eſtabliſhed in Great Britain. This was no other than to graft on the ſubverted conſtitution a right to levy money on the people, and thus entirely exclude parliaments. Without ſuch a prerogative, the only pillar to ſupport deſpotiſm, he held a very precarious tenure in the tyranny he had uſurped. The immenſe ſums otherwiſe extorted from his people were but barely ſufficient to maintain the more than Eaſtern ſplendor of his court, and defray the neceſſary expence of his government. Should any occaſion then preſent itſelf which required an extraordinary ſupply, he muſt perchance be enforced to demand it in a legal manner of his people, by the old method in parliament. This object of terror, like the ſword of the tyrant Dionyſius, hung ſuſpended over his head, and thoſe of his miniſters, ready to cruſh his aſſumed deſpotiſm, and execute juſtice on thoſe parricides. Anno 1634.

On this occaſion, Noy, who, ever ſince he had been veſted with office, had uſed his drudging talents to ſet a legal color on every miniſterial project, was referred to. Noy fell again on the expedient of ſhip-money, grounding his opinion on obſolete uſages and cuſtoms, for furniſhing a Project of Ship-money!

Anno 1634. certain number of ſhips for defence of the ſeas, a buſineſs for which, ſince the more frequent uſe of parliaments, thoſe aſſemblies had ever allotted tonnage and poundage, a tax never yet given on other pretexts. On theſe authorities, produced by Noy, writs were iſſued out, ſetting forth that the ſeas were infeſted with pirates, and commanding the city of London, on their allegiance, and under the forfeiture of all they could forfeit, to fit out ſeven ſhips of war: Power was given by the ſaid writs to aſſeſs all men in the city, and to impriſon thoſe who ſhould be rebellious and contrary in the premiſes, there to remain until farther orders ſhould be given for their delivery. Such writs were likewiſe directed to all the counties of England*. With theſe writs went inſtructions from the council to the ſheriffs of the ſeveral maritime counties for aſſeſſing and levying ſhip-money: Thoſe who refuſed payment of their portion were to be diſtreſſed, and their goods ſold for the payment, without any reſpect of perſons, except

* Previous to the iſſuing theſe writs, two proclamations had been publiſhed: One of them forbade any ſea-faring men, ſubjects to the crown of England, to enter into the ſervice, of any prince or foreign ſtate, or to be employed out of the realm, without his majeſty's licence, or the licence of the admiral of England; and if any be in ſuch ſervice, that they return, under a great penalty. The other had in it much of the character of the Stewart family: It prohibited the ſubjects of any of the King's nations and kingdoms to preſume to carry the union-flag in the main-top, or other parts of their ſhips; but that the ſame union-flag be ſtill reſerved as an ornament proper for the King's own ſhips, and ſhips in his immediate ſervice and pay, and no others. And his majeſty's farther will and pleaſure is, that all other ſhips of his ſubjects of England, or South-Britain, bearing flags, ſhall from henceforth carry the red croſs, commonly called St. George's Croſs, and that all the ſhips of the King's ſubjects of Scotland ſhall from henceforth carry the white croſs, commonly called St. Andrew's Croſs. *Rymer's Fœdera*, vol. XIX. p. 549.

clergymen,

clergymen, who were to be treated with the deference due to their perſons and callings. If the conſtables, bailiffs, and other officers neglected to do their duty, they were to be bound over to anſwer their fault at the board; and their ſheriffs were to appoint ſuch inſtruments as they ſhould chooſe to ſee the buſineſs affected. Moreover, all ſuch ſums as ſhould be left unlevied by the ſheriff, at the end of the year, were to be levied upon him by his ſucceſſor. Anno 1634.

The city of London, on receiving their writ, ſet forth, that by grants and acts of parliament they were exempt from ſuch a charge; and petitioned that they might enjoy their privileges. On the mayor of London's receiving a reprimand, with the city-council, who were admoniſhed to take heed how they adviſed the city in a caſe ſo clear for the King, wherein his majeſty had firſt conſulted with his learned counſel and his council of ſtate, they yielded, though with great murmurings. Several individuals would not pay till after impriſonment, that it might ſtand upon record they were forced to it. Some oppoſition likewiſe aroſe in the counties of Devonſhire and Suſſex; but on the ſheriffs beginning to diſtrain, and on the deputy-lieutenants, and other gentlemen, who had ſigned a petition, being ſent for up to appear before the council, and receiving a ſevere reprimand, they ſubmitted, and paid their money. Strafford's Letters, vol. I. p. 358. 372, & ſeq.

Noy the attorney-general, who countenanced this meaſure, died before any progreſs was made in it. He had received no other favor from the crown but the laborious office of attorney-general—a narrow recompence for the ſacrifice of virtue, honor, and a good name. From being a great patriot, and an oracle for precedents favor- Death of Noy. His character.

Anno 1634. able to the powers of parliament, he became ſo faſcinated to the deſigns of the monarch, through the ſeduction of court-ſolicitation, that he was the moſt keen of all the miniſterial gang in every illegal meaſure which the times produced, in all oppreſſive proſecutions, the peculiar buſineſs of his office: Equal to a place of this ſort, he filled it with the higheſt degree of infamy. As his demerits were great, ſo was he completely hated by the public: After languiſhing out a long illneſs, he died without being regretted by his own party, on account of his bodily infirmities, which prevented his being ſo active an agent as the buſineſs in hand required; whilſt, at the ſame time, he lay under the infernal odium of being the propounder of ſhip-money *. Sir John Banks was promoted to the office of attorney-general in his ſtead. Sir Robert Heath, the chief-juſtice of the Common-Pleas, whoſe merits on the ſide of government have been recorded, was now found not to have quite villainy or hardineſs enough for the preſent deſigns: he was removed, and Sir John Finch, the queen's attorney, appointed in his place. It was reſolved that ſhip-money ſhould be extended to the inland as well as the maritime counties, and made a general tax all over England †.

* Laud to whom he had devoted himſelf, obſerves thus of his death: "I have loſt a dear friend, and the church the greateſt ſhe had of his condition, ſince ſhe needed any ſuch." The public, on this cataſtrophe, ſported the following witticiſms; That his body being opened, there were found in h head a bundle of proclamations, in his maw moth-eaten records, and in his belly a barrel of ſoap. *Laud's Life by Prynne*, p. 19. *Rushworth*, vol. II. p. 213.

† According to the rates on the new plan, this tax was to bring in near three hundred thouſand pounds.

The

The very errors of the government were at this time a favorable circumſtance for ſurprizing the people into a kind of acquieſcence to this exorbitant ſtretch of power. Shipping had been wholly neglected; the naval force of England was on ſo contemptible a footing, that the commerce of the country was left unprotected. The Dutch not only continued to fiſh on the Britiſh coaſt, but inſulted its ſubjects. The Algerines paid yearly viſits to the ſeveral iſlands in its empire, and committed great depredations, carrying the natives priſoners to France, and from thence ſhipping them off to Algiers. This made the merchants and people in general, whoſe commerical intereſt was ſtrongly affected, more patient in the preſent circumſtances. This patience threw the court and miniſtry into a perfect ſecurity. Charles and his queen made a magnificent progreſs beyond the Trent, where they were received by the vulgar with a joy and expence as if no cauſe of diſſatisfaction had been given *. Anno 1634.

* On this occaſion the marquis of Newcaſtle expended ſix thouſand pounds in an entertainment given to the King and queen at his own houſe; an entertainment almoſt equally expenſive by this nobleman, on the King's journey to Scotland, has been already mentioned. This voluntary tax to the pleaſures of his ſovereign had not its motive from the exuberance of fortune which he poſſeſſed, but from his peculiar vanity, or ſome little perſonal civility he had received from the court. He wrote to Wentworth on the following particulars: "That children came on apace; that his weight of debt lay upon him; that Welbeck that ſummer had not recovered him of the prodigal diſeaſe; concerning Wentworth's trying his friends in his behalf." To this letter Wentworth returned the following advice and inſtruction: "That on the King's journey from Welbeck, Newcaſtle ſhould gently renew a motion which had been made in his favor; that if the King declined granting it, he ſhould teſtify that he was ready chearfully to acquieſce in his majeſty's good pleaſure; that he ſhould farther beſeech the King to reckon of him as a ſervant

Anno 1634. It was in this year the nation ſuſtained the loſs of that diſtinguiſhed patriot Sir Edward Coke, who died in the eighty-ſixth year of his age, at his manſion-ſeat in Buckinghamſhire, where he had ſpent the remainder of his days from the year 1628-9, in a quiet retirement, univerſally beloved and reſpected. From a juſt ſenſe of the ſervices this great man rendered his country in the latter and more experienced period of his life, it were to be wiſhed that all his failings had been buried in a total oblivion; but a ſtrict regard to truth, that catholic virtue in an hiſtorian, renders it neceſſary to enter into ſome parts of his conduct, the defect of which is ſo glaring, that nothing but a long ſucceſſion of patriotic exertions could have reſcued his memory from that pit of infamy to which the baſe time-ſervers of thoſe ages have ſo deſervedly been condemned. Very early in life he was eſpecially noticed by Burleigh for the admirable talents he diſplayed at the bar, and was frequently conſulted on the queen's affairs. Burleigh found ſo much ſolid judgment in him, that he promoted him before his own kinſman Bacon, whoſe law-learning he accounted ſome-

Death of Sir Edw. Coke.

His character.

who would lay down his life for him, whenever he ſhould pleaſe to require it; that he did not covet the favor for any private bettering of his fortune, but merely that he might have the happineſs to ſpend his life near that perſon whom he did not only reverence as his ſovereign, but infinitely love and admire for his piety and wiſdom." This anecdote, though a trifling one, illuſtrates the humors of the nobility, the extreme paſſion they had for a domeſtic attendance on the perſons of the King and queen: it farther ſhews the tranſcendant folly and vanity of Newcaſtle, in the ſpending upwards of ten thouſand pounds with a view only to get a place at court. He was ſome time after this gratified in his deſire, by being appointed tutor to the prince. *Strafford's Letters*, vol. I. p. 101, 274.

what

what ſuperficial *: Coke was made Queen's ſoli- Anno 1634.
citor, and then her attorney. In theſe capacities he was conſulted by the miniſters in all points of difficulty; and he too often gave a legal coloring to the moſt tyrannical of their practices. But the very exceptionable parts of his conduct were the proſecutions of Eſſex and Raleigh, who were to be wrangled out of their lives to ſatisfy the infamous ends and caprices of a court. In theſe buſineſſes he ſtuck not to take the moſt unjuſt and illegal methods to compaſs the condemnation of the two ſufferers. But from the time when he attained a more exalted ſtation in the law, after he was made chief-juſtice of the Common-Pleas, in the year 1606, he began to ſhew himſelf no friend to a boundleſs prerogative, objecting in the points of proclamations, prohibitions, and other ſuch matters. His noble and dignified behavior on king James's calling him to account for his aſſerting the rights of the courts of common law, and arguing the point of commendams, have been already mentioned. When he began to find, in the experience of the unjuſt uſage he had received, the venom which lay in prerogative; when he began to conſider the pretenſions of the Stewart family; that the conſequence of ſuch claims, if allowed and eſtabliſhed in the conſtitution, would render the line of law of no effect; that the very forms of it would be ſubverted to the ends and purpoſes of regal tyranny; he from this time exerted in the houſe of Commons † an unconquer-

* This was the ground of that hatred which Bacon ever bore to Coke.

† On James's diſpleaſure, Coke was diſplaced from his office of lord-chief-juſtice, and thus enabled to ſerve his country in parliament.

Anno 1634. able zeal for correcting abuſes, for eſtabliſhing the authority of the law, and confining the prerogative to its proper bounds. From theſe moſt laudable attempts he was not to be diverted, either by the threats or cajolements of a court: for at the period when he was much truſted and employed, after being re-taken into favor, he was ſo far from acting the part which on theſe conſiderations was expected of him, that, in the parliament which met in the year 1621, he towered beyond all preceding patriots in the abilities he ſhewed in guiding the counſels of that aſſembly, in the ſtrength and propriety of the arguments he urged for the authority and privileges of parliament, turning by this conduct the ſmiles of the court into a commitment to the Tower, and and a rifling his papers. He, to his everlaſting honor was, in the ſucceeding reign, the man who propoſed and framed the Petition of Right. The cares of the greateſt part of his life were not only for the age he lived in, but that poſterity might feel the advantages of his almoſt unequalled labors. He was the firſt who reduced the knowledge of the Engliſh laws into a ſyſtem. His voluminous writings on this ſubject have given light to all ſucceeding lawyers; and the improvements which have been made in this ſcience owe their ſource to this great original: the ſervices he rendered his country in this reſpect are invaluable. But whilſt he labored to his very laſt moments to render the law intelligible, and conſequently ſerviceable to his fellow-citizens, he continued to be oppreſſed in the moſt illegal manner by the government. Secretary Windebank, by virtue of an order of the council for ſeizing ſeditious papers, entered his houſe at the time when he was dying, took away his Commentary upon Littleton, his

Coke, vol. I. p. 309.

Hiſtory

Hiſtory of that Judge's Life, his Commentary upon Magna Charta, his Pleas of the Crown, and Juriſdiction of Courts, with fifty-one other manuſcripts, together with his will and teſtament. This laſt was never returned, to the great diſtraction of his family-affairs, and loſs to his numerous poſterity. Anno 1634.

In the year 1635, Charles fitted out a fleet of forty ſail of ſhips, under the command of the earl of Lindſey, and a ſquadron of twenty ſhips, under the earl of Eſſex. Their inſtructions were to ſecure the narrow ſeas, and the trade of England. The conjoined fleets of the French and Dutch, on the ſight of this formidable armada, retired towards their own harbors, and by this retreat left the Engliſh undiſputed maſters of the ſeas; the great benefit whereof accrued to the Spaniards, for the Auſtrian Netherlands were preſerved from being over-run by the united force of France and Holland. Notwithſtanding this ſervice, and the loan of an Iriſh regiment under the command of colonel Preſton, who defended Bruſſels againſt the French, a treaty of peace was concluded at Prague between the emperor and the elector of Saxony, and nothing ſtipulated in favor of the Palatine family: Thus Charles, whilſt he inſulted his own people, was treated with ſcorn by foreign powers. Algernon earl of Northumberland, a perſonal favorite with the King and queen, was, on ſome diſtaſte which had been taken againſt Lindſey, made lord-high-admiral, and a command given him of ſixty ſail of large ſhips; the greateſt fleet England ever had put to ſea. A proclamation was iſſued, forbidding all who were not natives of Britain fiſhing upon its coaſts, excepting thoſe who ſhould obtain licences. Some Dutch ſhips were Anno 1635.

Anno 1635. ſurprized and ſunk; and that people conſented to pay thirty thouſand pounds for the privilege of fiſhing.

Charles now ſeems to be in the meridian of what he termed glory: he had fairly placed the yoke on the neck of his own ſubjects, and, by the ſeizure of their purſe had found means to humble the Hollanders, whoſe independent flouriſhing ſtate had ever been an eye-ſore to the Stewart family. Notwithſtanding the formidable power of the Engliſh navy, the people looked with horror and diſdain on the means by which ſuch a force was acquired: a fleet was indeed a deſirable object; but was it a recompence for the ſacrifice of all their conſtitutional rights? It would be impertinent to repeat the obvious objections which lay level even to the eyes of the vulgar, againſt the illegal means by which it was ſupported: murmurs and oppoſitions continually increaſed againſt ſhip-money *. Several people ſued the magiſtrates and other officers appointed to levy it: Among theſe was the lord Say, a nobleman who had ever been one of the forwardeſt in all the firm and ſpirited meaſures which had been taken by the parliament to ſtop the progreſs of deſpotiſm. Chambers, who had before ſuffered ſo ſeverely for his refuſal to yield to the impoſition of tonnage and poundage, was ſent to priſon by Sir Edward Bromfield lord-mayor, for refuſing to comply with this tax: he again exerted ſpirit enough to appeal to the juſtice of the long-ſuſpended laws, and brought an action againſt Bromfield for a treſpaſs and falſe impriſonment.

Strafford's Letters, vol. II. p. 86.

* In this year 1635 the elector-palatine, and his brother prince Rupert, came over to England to concert meaſures with Charles for their reſtoration; and the queen was brought to-bed of a daughter, the princeſs Elizabeth.

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Sir Robert Berkley, one of the juſtices of the court, would not ſuffer Chambers's counſel to argue againſt the legality of ſhip-money, avowing, in the face of the court, ſerjeant Aſhley's doctrine, that there was a rule of government which ſuperſeded the rules of law. The lord-keeper Coventry, who had been ſeverely reprimanded by the King for once mentioning a parliament, was now, on this correction, grown as pliable as was deſired *: he made a copious ſpeech to the judges of aſſize to the following purpoſe: That they ſhould in all their charges inſtruct the people that they were bound in duty to contribute with alacrity to the tax of ſhip-money. The city of London petitioning an abatement of their quota, received a threatening anſwer from ſecretary Cook; and Charles was now ſo ſure of the thorough ſervility which reigned amongſt the expounders of the law, that, to remove all objection, he ſent the following caſe to be reſolved by the judges.

Anno 1635. Ruſhworth, vol. II. p. 323, & ſeq.

Anno 1636. Ruſhworth, vol. II. p. 334.

"When the good and ſafety of the kingdom in general is concerned, and the whole kingdom in danger, whether may not the King, by writ under the great ſeal of England, command all the ſubjects of our kingdom, at their charges to provide and furniſh ſuch a number of ſhips with men, victuals, and munition, and for ſuch time as we ſhall think fit, for the defence and ſafeguard of the kingdom from ſuch danger and peril; and by law compel the doing thereof in

* On this pliableneſs of the keeper, Wentworth makes this obſervation: "If it ſhould pleaſe God his majeſty begin to apply *premium & pœna* luſtily and roundly, you will find he may have excellent uſe of him, and ſome others too; for I muſt tell you, a ſow's ear may prove good ſouſe, albeit no ſilken purſe." *Strafford's Letters*, vol. I. p. 163.

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Anno 1636. caſes of refuſal or refractorineſs? and whether, in ſuch a caſe, the King is not the ſole judge of the danger, and when and how the ſame is to be prevented and avoided?"

Whitlock, p. 24. Finch diſtinguiſhed himſelf as much about this buſineſs as he had done before in the courſe of his office as ſpeaker of the houſe of Commons. He cloſeted the judges, and at length, by the joint means of flattery and threats, extorted from them the following opinion: "That the King might, on the occaſions ſpecified in the queſtion, compel the ſubjects to furniſh aid; and that in ſuch a caſe he was the ſole judge both of the danger, and when and how the ſame might be prevented." Hutton and Crook were clearly of opinion that the King was not the judge of the danger, and that this was one of thoſe caſes in which he was obliged by the conſtitution to aſſemble and conſult with his parliament; ſince no man's property could be taken away from him, other than by the legiſlative authority, which the King by himſelf had not. After a long and ſolemn argument, Hutton and Crook ſeeing themſelves oppoſed by the majority, at length, to avoid danger, yielded, and ſubſcribed the opinion.

This point gained, Charles's next ſtep was to enter this opinion on record in all the courts at Weſtminſter *. The lord-keeper Coventry by his orders aſſembled all the judges in the Star-chamber, and, to the confuſion and amazement

* The making the extra-judicial opinions of the judges a law, by which the courts of juſtice were to proceed in judging the ſuits which might afterwards be brought about this affair, is one of the extraordinary precedents peculiar to this reign. It was what had never been done by any authority leſs binding than an act of parliament.

of the greateſt number of them, read in full court the queſtion, with their opinion; and afterwards addreſſed the aſſembly in the following ſtrain: Anno 1636,

"My Lords,

"This being the uniform reſolution of all the judges' opinion, with one voice, and ſet under their own hands; I ſay, this being ſo reſolved, as they do here expreſs upon every man's particular ſtudying of the caſe, and upon a general authority among themſelves, it is of very great authority: for the very lives and lands of the King's ſubjects are to be determined by the judgment of theſe reverend judges, much more a caſe of this nature, which God knoweth cannot be burthenſome to any, but is of a ſingular uſe and conſequence, and for the ſafety of the whole kingdom. The commandment from his majeſty is, that I ſhould publiſh this your opinion in this place, and give order that it ſhould be entered in this court, in the high court of Chancery, in the courts of King's Bench, Common-Pleas, and Exchequer; for this is a thing not fit to be kept in a corner. And his farther command is, that you the judges do declare and publiſh this general reſolution of all the judges of England, throughout all parts of the kingdom, that all men may take notice thereof, and that thoſe his ſubjects who have been in any error may inform themſelves, and be reformed. You have great cauſe to declare it with joy, and you can hardly do it with honor enough to the King, that in ſo high a point of his ſovereignty he hath been pleaſed to deſcend and communicate with you his judges, which ſheweth that juſtice and ſovereignty doth in his majeſty kiſs each other.

Anno 1636. His pleaſure farther being, that you let all know, that it is not in his purpoſe by this reſolution to ſtop or check the actions or ſuits which any have brought, or ſhall bring, concerning this; for it is his majeſty's command, that all ſuch as proceed in an action about the ſame ſhall have equal and mete juſtice, and that they be ſuffered to proceed in courſe of law, ſo as you call the King's learned counſel unto their proceedings, that they may not be ſurpriſed. Now, my lords, I have little more to ſay; but this I am ſure of, that if any contrary opinion ſhall remain among men, it muſt proceed from thoſe who are ſons of the law, or from ſome not towards the law. Of the latter I will ſay, *Felices demum eſſent artes, ſi de illis ſolum judicarent artifices.* And as to the former, you the judges of the realm are, and ever have been, accounted the fathers of the law; then will it become the ſon to diſpute againſt, or take upon him to be wiſer than, the father? Having thus delivered to you that which I received in commandment from his majeſty, as his majeſty doth, ſo do I, leave it to your judgment."

Could there be any aggravation of the injury the ſubject ſuſtained by the violation of their rights in the exacting ſhip-money, it would be the provoking inſult of thus impoſing it as the law of the realm. It is impoſſible to conceive the joy this proſtitution of juſtice gave the miniſtry, how they triumphed, how they exulted, in their fancied ſecurity: "This for ever vindicates the royalty, ſaid they, from the conditions and reſtraints of ſubjects; this eſtabliſhes the King's throne in wealth, ſtrength, and glory, far above any of his progenitors *."

* The following are opinions written by Wentworth on this extraordinary occaſion: "It is plain indeed, that the judges

Though Charles was from his diſpoſition and education infinitely attached to arbitrary principles in government, yet he did not want for ſtimulations to urge him on towards his natural bias. The queen, to whom he was dotingly attached, entertained him continually with the example of France. The uxorious monarch liſtened with pleaſure to the ſeductive tale, That that crown had, contrary to the fundamental principles of the conſtitution, acquired a power to impoſe taxes and levy money without parliaments; and by its reſolute and wiſe conduct had entirely changed the nature of the government. On the topic of French politics, ſhe inſinuated thoſe maxims which Charles held in the greateſt veneration, that the power, opulence, and authority of the French clergy were the firm ſupports of the crown. In this ſhe was well ſeconded by Laud, and Charles grew every day more fond of a religion whoſe doctrine was ſo favorable to thoſe good purpoſes *. Thus encouraged, the Anno 1636.

judges declaring the lawfulneſs of the aſſignment for the ſhipping, is the greateſt ſervice that profeſſion hath done the crown in my time. But unleſs his majeſty hath the like power declared to raiſe a land-army, upon the ſame exigence of ſtate, the crown ſeems to me to ſtand but upon one leg at home, to be conſiderable but by halves to foreign princes abroad. Yet ſure this methinks convinceth a power for the ſovereign to raiſe payments for land-forces, and conſequently ſubmits to his wiſdom and ordinance the tranſporting of the money and men into foreign ſtates. And if by degrees Scotland and Ireland be drawn to contribute their proportions to theſe levies for the public, *omne tulit punctum.*" Wentworth perſuades the King ſtill to abſtain from entering into the broils on the continent; and ſays, "That the people muſt be firſt accuſtomed to theſe new levies, leſt they grow peeviſh and backward in their payments, when they find his majeſty not at ſo entire leiſure to diſcipline their untowardneſs as in time of peace." *Strafford's Letters*, vol. II. p. 61, *& ſeq.*

* Orleans the Jeſuit writes, that the queen was very zealous for reſtoring the Catholic religion in England; and being

Anno 1636. Papiſts threw off all reſtraint or decency of deportment: Notwithſtanding the ſevere laws ſtill extant againſt prieſts, many Jeſuits openly appeared in that character; maſs was publicly reſorted to at Somerſet-Houſe, which was erected into a kind of convent for the Capuchins. With theſe inſults, the Papiſts entered into all thoſe projects which were thought the moſt grievous to the ſubject: The corporation of ſoap-makers were almoſt all of that ſect.

Claredon. Heylin.

Scheme of a reconciliation with the church of Rome. Ruſhworth, vol. II. p. 376.

There ſeems to have been this year a regular plan ſettled of bringing about the favorite ſcheme of a reconciliation with the church of Rome. One Gregorio Con, a Scotchman, came into England in the character of the pope's nuncio *; and Sir William Hamilton, a Scotchman, was ſent to Rome, as an agent for the Engliſh court †. Laud had ſeveral private conferences

being full of that ſpirit which warms the blood of abſolute monarchs, a limited authority to be uſed with art ſeemed to her no better than ſervitude, which cauſed her to make the utmoſt efforts to reſcue the King her huſband and herſelf from it; that ſhe always kept about her a nuncio of the pope's, and entertained correſpondency with the Catholic lords; that ſhe ſtood up for every thing which regarded the church with authority, and ſometimes with heat; and having a conſiderable number of clergymen about her, who were reſtored to her by the peace, ſhe had frequent controverſies with the zealous Proteſtants, wherein the King, who loved her, gave her full liberty, and ſometimes ſupported her. *Father Orleans's Hiſt.* oct. ed. 1722, p. 22, *& ſeq.*

* Con brought over with him a large cargo of relics of ſaints, and medals of the pope, with other things of the ſame kind. It is not to be imagined how many people of the higher rank, eſpecially women, were made converts, by the queen's influence, the aſſiduity of the nuncio, and the effects which this trumpery wrought on their imaginations.

† Charles laid aſide that formality he uſed to his own ſubjects, and grew familiar with Con; he admitted him in all his parties. Propoſitions were made on both ſides towards the

with one Davenport, who, under the name of Santa Clara, publiſhed a work, in which he endeavored to reconcile the Proteſtants to the church of Rome. Popiſh primers and catechiſms, and other books of the kind, were imported with impunity, contrary to the ſtatute of the third of James. At the ſame time, the ſevereſt penalties were impoſed on a cuſtom-houſe officer, who by negligence had ſuffered a parcel of Geneva bibles to paſs unnoticed. Paſſages againſt Popery were expunged from all the books whoſe publications were licenſed *. Almoſt Anno 1636. Prynne's Trial of Laud, p. 349, 543, & ſeq. Ibid, p. 252, & ſeq.

the deſired reconciliation, in a book entitled, "The Engliſh Pope." It is affirmed, that when Con undertook the management of that affair, matters began to grow towards an agreement. This Laud's own creature and boſom-friend, Heylin, does not deny, but vindicates it in the following ſtrain: "The greateſt part of the controverſies between us and the church of Rome, not being in the fundamentals, or in any eſſential point in the Chriſtian religion, I cannot otherwiſe look upon it but as a moſt pious work to endeavor an atonement in the ſuperſtructures." *Heylin's Life of Laud*, p. 412, *& ſeq.*

* Laud cauſed a decree to be made in the Star-chamber, of which the following is an abſtract: That all books concerning the common laws ſhall be licenſed by the lord-chief-juſtice; all books of hiſtory belonging to the ſtate, by the ſecretaries of ſtate; books of heraldry, by the earl-marſhal; and books of divinity, phyſic, *&c.* by the archbiſhop of Canterbury and biſhop of London, or the chancellor or vice-chancellors of either of the univerſities; provided always, that the chancellor or vice-chancellors of either of the univerſities ſhall licenſe only ſuch books as are to be printed within the limits of the univerſities, not meddling either with books of the common law or matters of ſtate; That every perſon authorized to licenſe books ſhall have a copy of the intended publication, which is to be kept in the public regiſters of the lord-archbiſhop, or with, *&c. &c.* to the end they may be ſecure that the copy ſo licenſed be not altered without their privity: That every importer of books, before they expoſe any to ſale, ſhall give a true catalogue to the lord-archbiſhop of Canterbury, or the lord-biſhop of London: That no importer ſhall preſume to open

any

Anno 1636. every thing, however groſs, was permitted any parcel of books coming from beyond the ſeas, nor any officer belonging to the Cuſtom-houſe ſuffer the ſame to paſs, till the lord-archbiſhop of Canterbury, or lord-biſhop of London, appoint perſons to view the ſame: That if there be found any offenſive books, the lord-archbiſhop of Canterbury, and lord-biſhop of London, may cauſe the offender to be puniſhed: That every perſon who hereafter prints any books, ballads, charts, pictures, or any other things whatſoever, ſhall put their names to the ſame, and the name of the author: That no perſon ſhall import any Engliſh books, whether the ſame have been formerly printed or not: That no perſon ſhall erect any printing-houſe, or let any room for that purpoſe, without giving firſt notice to the company of ſtationers: That no workman ſhall make any printing-preſs, no founder caſt any letters, no one import any from beyond ſea, nor buy any, without firſt acquainting the maſter and wardens of the company of ſtationers. Farther to check publication, this decree ordained, that there ſhould be but twenty maſter-printers allowed, except his majeſty's printers, and the printers allowed for the univerſities: That the archbiſhop of Canterbury, and biſhop of London, were to fill up vacancies: That every perſon allowed to have the uſe of a preſs ſhould be bound in three hundred pounds penalty not to print any thing which was not lawfully licenſed: That no allowed printer ſhould keep above two preſſes, except the maſter-warden of the company, who was permitted to keep three: That no perſon reprint any book, though formerly printed with licence, without obtaining a new licence: The maſter-warden of the company not to keep above three apprentices; a maſter-printer of the livery of the company not above two; and a maſter printer of the yeomanry not above one: Becauſe a great part of the ſecret printing is occaſioned by the want of employment for journeymen-printers, every journeyman-printer free of the company ſhall be employed within the company, and the maſter-printer ſhall be obliged to employ them, though their apprentices can do the work: That no maſter-printer ſhall employ any who have not been apprentices to the myſtery of printing. The ſame regulations and reſtrictions were laid on the founders of letters, who were to be but four in number. For the better diſcovery of printing in corners without licence, any printers appointed by the archbiſhop of Canterbury, or biſhop of London, to have power and authority to take what aſſiſtance they think needful, and ſearch any houſes and ſhops they think fit, and bring the delinquents before the

which favored the Romiſh tenets *. A re-publication of the old ſtanding books againſt Popery was refuſed †. The laws were almoſt every day ſuſpended in favor of Papiſts ‡. A ſevere paſſage againſt this ſect was omitted out of the ſervice compiled for the fifth of November §; whilſt all the Proteſtants who did not conform to the new mode of worſhip were treated with the utmoſt rigor §. Laud, who aſſumed the character of univerſal biſhop ‖, made a metropoliti- Anno 1636.

archbiſhop of Canterbury, or biſhop of London: That no perſon ſhall land books coming from any place beyond ſea, but in the port of the city of London. The penalty of offending againſt the orders of this degree was to be whipping, diſabling, fine, and impriſonment, what meaſure of puniſhment the court of Star-chamber or court of High-commiſſion ſhould think fit to inflict. *Ruſhworth*, vol. III. *Appendix*, p. 306, *& ſeq.*

* Among other tenets of the ſame kind which were broached at this time, Mountague maintained, that ſaints had a peculiar patronage, and that prieſts had an immediate power from God to forgive ſins. One Anthony Stafford, in language highly ridiculous, and even blaſphemous, extolled the invocation of the Virgin. *Prynne's Trial of Laud*, p. 215.

† Jewel's Works, Practice of Piety, and the Book of Martyrs.

‡ Letters of grace were often ſigned by the King's own hand. Protections were granted that the courts of juſtice ſhould not proceed againſt certain Popiſh recuſants. Theſe were ſignified by a letter from a ſecretary of ſtate to the judges of the court, that they ſhould not be eſtreated into the Exchequer. One Grey, with other meſſengers, were by Laud and ſecretary Windebank, his creature, threatened to be laid by the heels if they moleſted Popiſh recuſants. *Ruſhworth*, vol. II. p. 285. *Prynne's Tryal of Laud*, p. 449, *& ſeq.* 458.

§ At the ſame time Puritaniſm was with ſuch rigor exterminated from Oxford, friar St. Giles, a Romiſh prieſt, was maintained with a royal penſion in that univerſity. *Prynne's Trial of Laud*, p. 456.

‖ The heads of the univerſity of Oxford and others of Laud's creatures and dependants, in their addreſſes uſed to give

Anno 1636. Heylin's Life of Laud, p. 291, & ſeq.

cal viſitation in all the dioceſes of England. He cauſed all the communion-tables throughout the kingdom to be diſpoſed according to the new plan; and framed bodies of ſtatutes for the government of cathedrals, where bowing at the altar was by article enjoined. On the occaſion of this general viſitation, the two univerſities of Oxford and Cambridge pleaded, that they were exempt from other viſitation than from the King, their founder. Laud repreſented this as binding up the hands of the church from enforcing a reformation *; and the matter was referred to the King and council. Sir John Banks, the attorney-general, pleaded for the archbiſhop's rights; whilſt the devout Charles argued the caſe, and gave judgment againſt himſelf: Laud, thus ſeconded, behaved with great inſolence even to the monarch. The deciſion went againſt the univerſity, though the earl of Holland, chancellor of Cambridge, offered to admit of Laud's viſitation by commiſſion from the King †. The

give him the pope's titles, Holineſs and Moſt Holy Father. *Prynne's Trial of Laud*, p. 194. *Heylin's Life of Laud*, p. 316.

* The archbiſhop urged, that there were three chapels in Cambridge not conſecrated; that they came into the chapels without ſurplices; and other dangers growing, that the univerſity would be paſt remedy before any complaint was made. About this time the new ſtatutes for the univerſity of Oxford were finiſhed, and publiſhed in convocation; The preface diſparaged king Edward VI's time and government, declaring the diſcipline of the univerſity was diſcompoſed by the King's injunctions, and that it did revive and flouriſh again in queen Mary's days, under cardinal Pole, when, by the much-to-be-deſired felicity of thoſe times, an inbred candor ſupplied the defect of ſtatutes. *Franklyn's Annals*, p. 473. *Ruſhworth*, vol. II. p. 324.

† There are things ſaid by the King during the courſe of this controverſy which may ſerve to give the reader an idea of his character and opinions. On Laud's advancing, that

archbiſhop having thus carried his point, the two universities were ſupplied with images, and the firſt queſtion aſked at the metropolitical viſitation was, "Is there due reverence paid to the altar?" On entering the chapels at Cambridge, none were permitted to approach it but in ſandals, and a conſecreted knife was ſet apart to cut the ſacramental bread *. To complete the triumphs of Laud, Juxon, his creature, whom he had cauſed to be made biſhop of London, was, on the death of the earl of Portland, promoted to the treaſurer's ſtaff †. This brought Laud into great reputation with his brethren: It was the Anno 1636.

that the exceptions to the archbiſhop's viſiting the univerſity came from the pope, "I dare ſay, ſaid the King, that the pope doth as much to beat down biſhops as any Puritan doth in England." Serjeant Thin, who was of counſel for the univerſity, having ſaid that Richard II. in a particular caſe, had miſtaken the law, "I will not grant, Mr. Serjeant, interrupted Charles, that my predeceſſor did miſtake the law—Perhaps he might be mis-informed of the law." *Ruſhworth*, vol. II. p. 324, *& ſeq.*

* Laud, in a letter to the vice-chancellor, ordered divine ſervice to be performed at Oxford in the Latin tongue, and that the vice-chancellor and thoſe who officiated ſhould be ſure to wear ſurplices. In a poſtſcript to this letter, Laud directs that all his letters of this nature ſhould be regiſtered. In the margin is written, "My letters of importance to be regiſtered." *Laud's Hiſt. of his Chancellorſhip of Oxford, in the Second Volume of his Remains*, fol. ed. 1700.

† Laud, in his Diary, obſerves thus of this promotion: "Sunday, William Juxon lord-biſhop of London was made lord-high-treaſurer of England: No churchman had it ſince Henry the VII's time. I pray God bleſs him to carry it ſo, that the church may have honor, and the King and the ſtate ſervice and contentment by it. And now if the church will not hold up themſelves, under God, I can do no more." On a previous promotion of this Juxon, Laud obſerves, "Dr. Juxon the dean of Worceſter, at my ſuit, ſworn clerk of his majeſty's cloſet, that I might have one whom I might truſt near his majeſty, if I grow weak or infirm—as I muſt have a time." *Prynne's Breviate of Laud's Life*, p. 17, 20.

Anno 1636. higheſt encouragement to devote themſelves to his meaſures, ſince they might aſpire, through ſo powerful a recommendation, to all the great offices in the kingdom *.

Impoſitions. Notwithſtanding the tax of ſhip-money, the people were daily plagued with various kinds of impoſitions †; and as the opulence of the clergy

* "The clergy are ſo high here, writes one of the newſmongers of the court, ſince the joining of the white ſleeves with the white ſtaff, that there is much talk of having a ſecretary a biſhop, and a chancellor of the Exchequer. This comes only from the young fry of the clergy: There is not much credit given to it; but they ſwarm mightily about the court." *Strafford's Letters*, vol. II. p. 2.

† A place was erected for one Leſley out of the fines for prophane curſing and ſwearing. A fine was impoſed on every ſubject who departed the kingdom without licence from the King and council. The Poſt-office was rendered a job to one Wetherings. A new impoſition of four ſhilling *per* chaldron was laid on all ſea-coal which was tranſported. The King appropriated to himſelf the ſale of gun-powder: The ſubject was forbid by proclamation to ſupply himſelf otherwiſe than out of the King's ſtores, at ſuch rates as the King ſhould pleaſe to appoint. Moreover, arbitrary prohibitions were made concerning the not paving any kind of outhouſes, which otherwiſe would be good nurſeries for the breed of ſalt-petre. Juſtices of the peace and other officers were commanded to make ſearch in all dovehouſes, cellars, vaults, outhouſes, to prevent all deceit or evaſion of the orders contained in the proclamation; that no ſtables, other than the ſtables of the lords ſpiritual and temporal, and of gentlemen of quality, be pitched, paved, or graveled, where the horſes feet are to ſtand.

One Hilyard was fined five thouſand pounds for ſelling ſalt-petre, againſt proclamation. Penalties were inflicted on heavy carriages which travelled the high-ways. The ſubject was again called upon to confirm by money their reſpective titles and eſtates. All proprietors were obliged to produce their titles, to which the commiſſioners were ſure to make objections: This made many people, to avoid a law ſuit with the King, compound with the commiſſioners, and give a ſum of money to ſecure the lands without farther trouble.

A patent

was to increaſe with that of the crown, an attempt was made to enhance the value of tythes within the city of London, by ſubjecting a queſtion in diſpute between the clergy and the citizens to the arbitration of the King and council. Anno 1636. Ruſhworth, vol. II. p. 269, & ſeq.

CHAP. IV.

Trial concerning Ship-money.—Arundel's fruitful negociation in Germany.—Pacific meaſures of the miniſtry.—Proſecution of Williams biſhop of Lincoln.—Proſecution of Prynne, Burton, Baſtwick, and others.—Reſolution of many to quit their native country.

WHILST the nation impotently groaned under the deepeſt wound the Engliſh conſtitution ever had received; whilſt the two eſtates Anno 1637.

A patent was granted for the ſole making ſtrong waters through England and Wales; and many other monopolies eſtabliſhed, to the great detriment and vexation of the ſubject.

An office was erected for the ſole making iron, and a ſurveyor appointed of all iron-works, furnaces, and forges, within England and Wales, by letters-patent. The officers were appointed to have fees at the time of ſurveying and marking; and all perſons were required to permit the ſaid officers or their deputies to enter into their warehouſes, iron-works, &c. The King declared, that his officers or their deputies might enter into any woods or wood-grounds, where any woods were or ſhould be felled to be converted into coals for the making iron or iron-metal.

An office was erected for licenſing ſubjects to travel in foreign parts.

An office was erected for the ſurveying and ſealing of a reel appointed to be uſed by the manufacturers in cloth and yarn. This erecting new offices with fees was illegal: An office of of worſted, in Edward III's time, was adjudged void and repealed; and an office of meaſurage, granted by Henry IV. was complained of in parliament, as againſt the ſtatute *De Tallagio non concedendo*. *Rymer*, vol. XIX. p. 601, *& ſeq.* *Ruſhworth*, vol. III. *Appendix*, p. 68, *& ſeq.* *Rapin*, vol. X. p. 294. *Strafford's Letters*, vol. I. p. 446.

Anno 1637. of Lords and Commons were precluded all hopes of ever re-aſſuming their rights, privileges, and authorities; whilſt law itſelf, conveyed through the polluted channel of corrupt gown-men, was rendered the inſtrument of deſpotiſm; one man, the ſame who had before ſuffered impriſonment rather than conſent to an illegal loan, again ſtood forth, and combated this new ſtate-monſter, ſhip-money.

Rushworth, vol. I. p. 428.

John Hamden, of an ancient family and conſiderable fortune, had been rated at twenty ſhillings for an eſtate which he held in the county of Buckingham: And, notwithſtanding the powers of the conſtitution ſeemed to be entirely ſubdued by the rapacious encroachments of monarchy; notwithſtanding there was no proſpect of relief from parliament; notwithſtanding the miniſters of Charles were armed with power, and held in one hand the ſword, in the other the yoke, over the neck of their helpleſs country; this illuſtrious individual, by an appeal to the laws of the realm, reſolutely ſtood the reſentment of a tyrant, rather than tamely ſubmit to the illegal impoſition. Mr. St. John and Mr. Holbourne, two lawyers of great eminence, were of his counſel. After many pleadings and traverſes, the cauſe was heard before all the judges in the Exchequer-chamber. Twelve days were expended in the pleadings of the lawyers, and the caſe was afterwards argued by the judges. Precedents of writs as ancient as the Saxon times were produced: Theſe writs, when examined, were found only to require the ſea-ports, ſometimes at their own charge, ſometimes at the charge of the counties, to ſend their ſhips for the defence of the nation. But this power which the crown had exerciſed, to iſſue ſuch writs, was entirely aboliſhed by the ſtatute

Trial concerning ſhip-money.

De

De Tallagio non concedendo; all the authority which remained was to preſs ſhips into the public ſervice to be paid by the crown. Yet notwithſtanding this, and that Mr. Hamden's counſel unanſwerably proved the illegality of the tax, from the fundamental principles of the conſtitution, and the poſitive dictates of the Great Charter, and other conſtitutional acts, and to the Petition of Right, which had lately been ſo ſolemnly enacted by the concurrence of the whole legiſlature, the proſtituted bench of judges, four individuals excepted, gave ſentence in favor of the crown. The judges Weſton, Crawley, Berkley, Vernon, Trevor, Finch, and Bramſton, for the King; Crook, Hutton, Denham, and Davenport, for Mr. Hamden. Anno 1637.

The great Littleton, who had made ſo noble a figure in all proceedings againſt the uſurpations of the crown, and in pleading the cauſe of the impriſoned members; had cried out, "The Petition of Right, the Petition of Right;" was now ſunk into a ſolicitor-general, and argued on the ſide of tyranny with all the petulance, arrogance, prevarication, and fallacy, of a true crown-lawyer; who, ſafe under the royal banners, clamors nonſenſe and falſhoods at the bar with unlimited impunity. The point in diſpute was ſo impotently conteſted by the pleaders on the ſide of prerogative, that nothing could equal the iniquity of their intentions but the weakneſs of their arguments. On the other ſide, Mr. St. John ſupported his with a great weight of authorities, and ſhewed a depth of learning, and ſtrength of reaſon, equal to the importance of the occaſion. Mr. Holbourne was manly and rhetorical: He expoſed the iniquity of the tax, upon the princi-

Anno 1637. ples of hiſtory, law, and civil policy *: But when at the greateſt diſtance he pointed towards matters of government, he was checked and interrupted from the bench by that conſummate tool Finch, who in open court reproached Crook and Hutton with having receded from their opinions given in private †. In the ſpeeches which Hutton and Crook made, they excuſed the ſeeming difference in their judgments, affirming, that the former opinion, which had been ſubſcribed with their hands, was extorted from them by their brethren, more ancient than themſelves; They had aſſured them, that it was not fit in caſes of a nature ſo much concerning the King, for ſome to ſubſcribe, and others to forbear their ſubſcription; and although they did ſubſcribe, it did not ſo bind, but that if the caſe came in queſtion judicially before them, they might give their judgments as they ſhould ſee cauſe, after hearing the arguments on both ſides. Judge Hutton farther ſaid, that if he was now of the ſame opinion he had before ſubſcribed to, yet this writ did not purſue that direction; for it was then agreed, that the King might charge in caſe of a general danger; not a danger of pirates, but on imminent neceſſity and apparent danger, which could not otherwiſe be avoided.

In the courſe of the pleadings it had been con-

* This work having been already enriched with a number of notes neceſſary to illuſtrate or enforce the matter in the text—that the page might not be diſfigured with a very long one relating to this important trial, the author has thought proper to add it by way of Appendix, which the reader is earneſtly deſired to peruſe.

† Denham being abſent on account of ſickneſs, Finch repaired to his chamber, to urge him to retract his opinion; and on his refuſal, uſed ſome threatening expreſſions. *Commons Charge againſt Finch, Ruſhworth*, vol. IV. p. 187.

feſſed,

feſſed, that public and private danger might be so imminent as to occaſion a neceſſary ceſſation of property, whilſt the parties were providing for their ſafety: But how abſurd was the plea of neceſſity in the preſent caſe? Urgent danger muſt be obvious to the public eye, and men will then readily ſubmit to an irregular authority, when exerted for their preſervation. What is there common between ſuch ſuppoſitions and the preſent condition of the nation, ſaid the popular lawyers? England enjoys a profound peace, and the enmity ſubſiſting between her neighbors ſecures her tranquillity. The writs which are iſſued for the levying ſhip-money pretend only that the ſeas are infeſted with pirates, and allow ſeveral months for equipping the ſhips: This muſt be a ſpecies of neceſſity which would admit of delay beyond the time requiſite for ſummoning a parliament. It was farther remarked, that the pretended neceſſity had continued, without interruption, for three years; and during ſo long a time had remained inviſible to the whole nation. Anno 1637.

This trial, which had been permitted in order to obtain a judicial record in favor of deſpotiſm, helped to rouſe the public from that effeminate paſſiveneſs which riches and luxury had occaſioned. A long peace, and national induſtry, had greatly enlarged the commerce, and encreaſed the opulence, of the people of England. Theſe advantages, due alone to their diligence and virtue, they now, by a logic which included all the property in the kingdom, ſaw themſelves irrecoverably deprived of. The more the late tranſactions were canvaſſed, the more evidently did it appear, that the old conſtitution was totally ſubverted, and tyranny eſtabliſhed in its ſtead; the utmoſt violence exerciſed againſt mens per-

Anno 1637. ſons and property, under the pretence of law and reaſon: If any thing could add to the indignity the public received, it muſt be ſuch a mockery of their underſtanding. The judgment in the caſe of ſhip-money bound all men to a forced acquieſcence; for the queſtion, whether the King could impoſe taxes without conſent of parliament, was never afterwards ſuffered to be debated: The lord Say endeavored to procure a new trial on the ſame point, but was refuſed. Juſtice Crawley, at an aſſize in the Weſtern circuit, aſſerted, in the face of the country, that the power of impoſing was ſo inherent in the crown, that no parliament could take it away. Juſtice Berkley, at the York-aſſizes, in the ſame public manner, declared, that the judges were in ſome caſes above parliaments.

Acherley's Brit. Conſtitutions, p. 373.

The zeal which theſe corrupt lawyers ſhewed in the cauſe of ſlavery could not be equalled but by the frenzy of the clergy. One Harriſon, a well-beneficed divine, and chaplain-extraordinary to biſhop Juxon the treaſurer, took notes of judge Hutton's ſpeech in the caſe of ſhip-money; and four days after preſſed up to the bar of the Common-Pleas, crying, he came to diſcover high-treaſon. On being told, that the King's Bench court was more proper for that accuſation, he ſaid, "No; the party ſat in that court, and there he would charge him: It was judge Hutton." The croud about the bar ſaid he was mad. "No, replied his curate; he will make good his accuſation." On being taken into cuſtody and examined, he juſtified his behavior, and ſaid, that Mr. Juſtice Hutton, in his argument, had denied that ſupremacy and ſupreme power which, by the orthodox opinion of all divines, was inherent in the King, whereby he had power to aſſeſs what

Strafford's Letters, vol. II. p. 167, 177. State Trials, vol. I. p. 699, & ſeq.

ſum ſoever he in his conſcience, between God and him, thought fit, for the good of the common-wealth, notwithſtanding any ſtatutes, laws, or cuſtoms, to the contrary; that all the ſtatutes were but favors from the Kings of this realm, which they might break at their pleaſure. The miniſtry were ſo aſhamed of this flight of Harriſon, that they gave directions to proceed againſt him in the King's Bench, where, for the miſdemeanor of inſulting a judge in his office, he was fined five thouſand pounds, and to make an acknowledgment of his offence. Anno 1637

Relative to this important trial and judgment in the caſe of ſhip-money, I muſt remark an anecdote which does honor to the female ſex. Judge Crook, fearful of expoſing himſelf to the reſentment of a wicked and powerful miniſtry, had determined to give judgment for the King; but his wife, a woman of true virtue, addreſſed him in a ſtyle of Spartan magnanimity; conjured him not to err againſt his conſcience and his honor for fear of incurring danger or poverty: for herſelf, ſhe would be content to ſuffer want or any miſery, rather than be the occaſion of his acting againſt his judgment and his conſcience. Crook, ſtruck with the exalted ſentiments, and ſtrengthened with the farther encouragements, of ſo dear and perſuaſive a friend, altered his purpoſe, and not only gave his opinion againſt the King, but argued with a noble boldneſs and firmneſs on the ſide of Law and Liberty. That there is an example of this kind in the hiſtory of my country, gives me infinite pleaſure; that there are few, I feel with a ſenſible regret. Were the principles of the generality of the ſex as juſt and as well founded as were thoſe of this reſpectable woman, it would have a very happy effect on the conduct Whitlock, p. 24.

Anno 1637. conduct of ſociety: We ſhould not have to lament ſo many melancholy inſtances of human weakneſs, nor, particularly in this country, ſuch a continued ſucceſſion of patriots falling from the higheſt pinnacle of reputation into the pit of ſhame and infamy, and ſacrificing the eſſential ſuperiorities of virtue and honor to the fancied diſtinctions of a peerage and a ribbon!

Ship-money continued to be exacted with the utmoſt rigor; and, to keep up appearances, a fleet for ſome time paraded on the ſeas: but, according to the opinion of the lord-admiral *, it was of ſo little ſervice, that the King might have ſaved his charges, and kept it at home. Indeed, the miniſtry ſeemed to conſider its uſes only as a color to their pretences; for at this very time the Dutch re-aſſumed their claim, and refuſed to purchaſe licences for fiſhing. The neutrality of the Engliſh ports was not only violated by Spain, Holland, and France, but the Engliſh merchantmen were frequently taken by the ſhips of theſe ſeveral powers; the paſſage-boats carrying the King's packets were ſpoiled and arreſted by the French. The earl of Leiceſter, ambaſſador to that King, writes to ſecretary Cook, "That the ſeas were dangerous by reaſon of the Dunkirkers; that the French committed frequent and inſufferable inſolencies upon the Engliſh; that the King's purveyor having made proviſion of foreign wine, part was taken by the Biſcayners, and carried into Spain, and the other part ſtayed in France." Sir Philip Carteret, governor of Jerſey, complained, that there was a general arreſt of all Engliſh ſhips and goods. At this juncture, three Engliſh Eaſt-India ſhips were taken by the Hollanders, the Bona-Eſperanza, the Dragon, and Katherine, valued at three hundred and fifty thou-

* Northumberland. Strafford's Letters, vol. II. p. 84, 117.

Sydney's State Papers, vol. II. p. 375, 435, 531, 533. Oldmixon, p. 128.

thouſand pounds. The Algerine pirates continued to infeſt even the Britiſh Channel, and made ſuch captures that they were at one time in poſſeſſion of between four and five thouſand ſubjects of the crown of England. Sallee, a town ſituated in the province of Fez, on the coaſt of Barbary, the great rendezvous of theſe ſea-robbers, revolting from the government of the emperor of Morocco, that prince ſent an ambaſſador to Charles to deſire him to attack the town by ſea, whilſt he aſſaulted it by land. Captain Rainſborough, an experienced ſea-officer, was this year ſent with four ſhips and two pinnaces, with inſtructions to block up the port of Sallee. It was at the ſame time attacked by a very powerful land-force, and ſoon reduced; the fortifications were demoliſhed, and the leaders of the rebellion put to death. It does not appear, that the reduction of Sallee was of any very material ſervice to the Engliſh ſubjects, for the Turks continued their depredations many years after this event.

Anno 1637. Depredations committed by the Turks.

Sallee deſtroyed.

The peace of Prague had diſcontented all parties, but particularly the Swedes, who, abetted by the French and Dutch, invaded the elector of Saxony's dominions. This contention among almoſt all the great powers in Europe rendered Charles of ſome conſequence: he had been courted in turns by the three ſtates in confederacy againſt the houſe of Auſtria—Holland, France, and Sweden. Of the increaſing power of the French and Dutch he had conceived a jealouſy, and was ſo cold towards entering into any alliance with the Swedes, that the chancellor Oxenſtiern's ſon, who had been ſent by his father into England to proſecute the project of the negotiation which had been broken off by Vane, was ſo lit-

Anno 1637. tle regarded, and treated in ſo ſlighting a manner, that he left the kingdom in great diſcontent, not even accepting the preſents which were made him in the character of ambaſſador. Charles neglected all the offers of aſſiſtance which theſe powers tendered him towards the reſtitution of the Palatinate family, and choſe ſtill to depend on the houſe of Auſtria, who, at this criſis, he imagined would be glad to purchaſe his friendſhip. At the acceſſion of the new emperor, the earl of Arundel was ſent into Germany, to negociate the reſtoration of the elector's patrimony. The ambaſſador received an anſwer ſo little ſatisfactory to the deſires of the court of England, that he returned home in great diſguſt, without taking leave *. Charles, inflamed by the account which the earl of Arundel gave of his fruitleſs embaſſy, began to liſten to propoſitions which were made him by the French king, whoſe country was at this time invaded by the arch-duke. For the aſſiſtance of the Engliſh fleet, and ſome levies of men, Charles was to have a ſhare in all the conqueſts gained from the Auſtrian family, and no peace to be concluded before the prince elector was reſtored to his poſſeſſions and dignities †.

Arundel's fruitleſs negociation. Ruſhworth, vol. II. p. 364, & ſeq.

There were at this time two factions in the court; one of them favored the houſe of Au-

* The duke of Bavaria plainly told him, that what he had gained by the ſword he would keep by the ſword. *Ruſhworth*, vol. II. p. 365.

† There was at this time an effort made to get money from the Puritans, under pretence that the prince-elector, who was yet in England, was deſirous of being in action, and would attempt an expedition againſt Spain. This did not take: the people of England were too much exaſperated with forced impoſitions to come into the ſcheme of a voluntary contribution. *Strafford's Letters*, vol. II. p. 49.

ſtria,

ſtria *, and the other inclined to the French and Dutch. The firſt had drank deep of the intoxicating cup of tyranny, and had planned all the meaſures which had been purſued to ſubvert the conſtitution: They found their ſafety depended on preſerving a profound peace, and uſed all their influence to prevent their maſter from engaging himſelf in the quarrel on the continent, or entering too far into the intereſt of his ſiſter and his nephews. The other faction had kept well with the court, for the ſake of places and preferments; but at the ſame time impatiently expected an occaſion which would drive Charles and his cabal into the neceſſity of ſummoning a parliament: This event, they hoped, would prove a means of freeing their enſlaved country, and confounding the hitherto ſucceſsful ſchemes of her enemies. They continually repreſented to the King the deplorable ſituation of the queen of Bohemia, and that now was the favorable criſis to recover by honorable means the Palatinate, and revenge the indignities the Stewart family had received from the houſe of Auſtria †.

Anno 1637.

Pacific meaſures of the miniſtry.

* Northumberland, who was of the council, wrote word to Leiceſter, Charles's ambaſſador in France, that Laud, Hamilton, and Wentworth, who were the people who abſolutely governed, were as much Spaniſh as Olivares; that there was not any body about the King more Spaniſh than Wentworth. Moreri accuſes him of being a penſioner to Spain. Sir Thomas Roe wrote out of Germany, that he had good intelligence there, that ſecretary Windebank betrayed the counſels of the Engliſh court to the Spaniards and Imperialiſts, and that he was their penſioner. *Sydney's State Papers*, vol. II. p. 617, 621.

† Wentworth perfectly underſtood the aims of this faction, and expreſſed his fears to Laud. "Good my lord, writes he, if it be not too late, uſe your beſt to deliver us from this war; it will neceſſarily put the King upon all the high ways poſſible; and if theſe fail, the next will but be the ſacrificing thoſe who have been his miniſters therein. I profeſs I will

lay

Anno 1637. The preſent appearance of a war ſtruck the cabal of miniſters and all their adherents with conſternation: a parliament, that object of terror to wicked ſtateſmen, repreſented itſelf to their imagination, armed with all the powers of the injured conſtitution; and their guilt made them ſenſible that they had nothing to hope from the ſevere but equitable juſtice of that aſſembly. The alarm ran through the whole miniſterial faction: Though Charles aſſured Wentworth that his warfare ſhould be by ſea, not by land, that he was determined not to meddle with land-forces, and that by this management he ſhould keep free from the neceſſity of calling a parliament, yet this did not calm the apprehenſions of this ſelf-convicted criminal: He repreſented in a very preſſing manner, "the danger the King ran of entering into foreign engagements till the crown was diſcharged of debts, the royal coffers filled, and the ſovereignty ſet upon its right foot throughout the three kingdoms; but that this foundation laid, nothing could ſhake the monarchy, or ſtay the career of his majeſty's triumphs. It was to be conſidered how far his majeſty was obliged to interrupt the proſperity of his own affairs, for the reſtitution of the prince-elector his nephew; how far anſwerable in piety towards his ſiſter and his nephews, having ſo royal and plentiful an iſſue of his own to be provided for according to their greatneſs, and that in the firſt

Strafford's Letters, vol. II. p 53, 59, & ſeq.

lay down my life to ſerve my maſter; but it would ſomething trouble me to find even thoſe who drew and engaged him in all theſe miſchiefs buſy about me themſelves in fitting the halter about my neck, and in tying the knot ſure that it ſhould not ſlip; as if they were the perſons in the world the moſt innocent of guilt, howbeit in truth as black as hell itſelf, and on whom the puniſhment ought to lie." *Strafford's Letters*, vol. II. p. 66.

place,

place, whereas by this means they ſeemed poſt- Anno 1637.
poned; it was to be conſidered, whether ſhip-money would be brought in ſo readily this year as it was the laſt, or whether his majeſty's being engaged in a war might embolden the ill-affected to grow more backward in their payments, finding him not at ſo entire leiſure to diſcipline their untowardneſs as in time of peace. Should the fleet going out fall into any misfortune, what likelihood that the ſubject would, without heſitation, make up the breach by a ſecond levy? that failing, what other means had the crown to enforce it but by parliament? and what wiſdom did adviſe the ſummoning one in a time ſo conditioned? Were it not more opportune to endeavor the reſtitution by treaty, to ſatisfy the duke of Bavaria and other pretenders with two or three hundred thouſand pounds among them, rather than enter into a war accompanied with uncertainties, inconveniencies, and dangers? It might be aſked, where was ſo great a ſum to be had?—Of the ſubjects of England; and thus inſenſibly gain a precedent, and ſettle a right in the crown to levies of ſuch a nature, which drew after it many advantages, more proper to be thought of at ſome other ſeaſon than the preſent." To theſe conſiderations Wentworth added, that the conſequences of a war would be the decreaſe of the cuſtoms of Ireland *; it would prove an obſtacle in the ſettling plantations, and that all the propoſitions given to his majeſty for the advancement of his revenue would be at a ſtand.

* By the means of many oppreſſive impoſitions, the receipt of the cuſtoms in Ireland was raiſed two thouſand pounds *per* year. Wentworth had a great ſhare in theſe farms, and was accuſed of putting more money in his own pocket by theſe improvements than he did in his maſter's.

Argu-

Anno 1637. Arguments of this nature could not fail of having their due weight. The entering into a league with the fore-mentioned confederate powers was entirely laid aſide, and Charles aſſured his miniſters, that nothing ſhould incite him to meddle with war. He refuſed to enter into an offenſive and defenſive treaty with France, and ſlighted every propoſition of alliance with that court. Lewis reſented this behavior, and told the earl of Leiceſter, the Engliſh ambaſſador, that his maſter's embracing or rejecting the amity proffered depended on the reſolutions of the court of Vienna, and that he had made uſe of a pretended treaty with France to render the emperor more compliant to his demands. Lewis farther complained, that the King of England openly aſſiſted the enemies of France, the Spaniards, and earneſtly adviſed Charles to break off all correſpondence with the emperor, for he was aſſured that the houſe of Auſtria would never give him any kind of ſatisfaction.

Sydney's State Papers, fol. ed. 1746. vol. II. p. 394. & ſeq. 446, 451.

From the circumſtances which have been mentioned, it is eaſy to gather what were the true reaſons for Charles's obſtinate neutrality during the conteſt between the houſes of Auſtria and Bourbon, when almoſt all the other ſtates in Europe were engaged on the one ſide or the other. On this occaſion, moſt writers have complimented him with a ſagacity and diſintereſtedneſs, which make no part of his character; they have given him the merit of underſtanding the true intereſt of Europe, of foreſeeing the formidable greatneſs of the Bourbon family, and acting by this knowledge on the ſteady principles of juſt policy. To ſuch ſuppoſitions it may be objected, that Charles's government was of a nature which obliged him to keep out of every war but that which

which he was making on the Engliſh conſtitution; that the balance of power was at this time apparently in the houſe of Auſtria, a family who had in a manner deſtroyed both the civil and religious liberties of Germany; that had the king of England, by an upright government, united his ſubjects' intereſt with his own, he would have been aſſiſted in a manner which would have rendered him one of the moſt conſiderable principals in the war. The houſe of Auſtria might have been deſpoiled of ſome of that power it had ſhamefully abuſed; and the Palatinate family, not the French, come in for a great part of the plunder: whereas, by permitting Lewis to become the head of the Proteſtant confederacy, one of theſe two inconveniencies were likely to follow; either the houſe of Auſtria get the better, and thus become more formidable by the contention; or be worſted, and the houſe of Bourbon acquire a great acquiſition of power. Anno 1637.

Williams biſhop of Lincoln, notwithſtanding many ſervile efforts to recover power and influence, continued ſtill the object of diſgrace: the implacable Laud, who had conceived an inſuperable jealouſy of his abilities, perſecuted him with repeated injuries. Buckingham's enmity and ſuſpicions have been related, on the diſſolution of the aſſembly at Oxford. Williams attempted to ward off the expected blow, by putting into the King's hand the hiſtory of his conduct: That he had never ſpoken with any of the ſtirring members but with Philips, and with Wentworth for the ſervice of the duke; that he did croſs the popular way more than any of the council, in adviſing his majeſty to reſerve to himſelf the execution of laws againſt recuſants, in poſtponing the bill againſt them, and in ſtaying Hacket's Life of Williams, fol. ed. Id. oct. ed. Ruſhworth. Fuller's ChurchHiſt.

Anno 1637. the bill of tonnage and poundage, which was promoted by lord Say *; that he had offered his ſervice to his majeſty, for the executing any directions which ſhould be given to him in private; that he had waited on his majeſty and the duke ſeven times for ſuch commands, and had received none; that as the duke was endeavoring to ruin him in parliament, he could not ſtickle at that time without employment from his majeſty.

Charles was ſo ſatisfied with Williams's juſtifying himſelf from having any honeſt intentions, that he received him graciouſly; but Buckingham and Laud were too earneſtly intent on his ruin to ſuffer him to ſave his plumage: he was deprived of the ſeals, under pretence that they were given him by James but for the term of three years, and were deſigned by that King to be kept triennially. Williams pleaded, that he had been by his late maſter permitted to keep his office above that term, and that Charles had continued him in it without any condition or limitation of time; he deſired leave to ſpeak with the King, which was granted him, on condition that he would not preſs his majeſty to yield reaſons for removing him from the ſeals and from the council-board. In this interview he made ſeveral petitions, which the King, who wanted to get rid of him, promiſed to grant, but fell ſhort in the performance; and the biſhop was farther mortified with orders to confine himſelf to his epiſcopal ſee, not to appear at the coronation, nor to attend the next parliament. In the third parliament of this reign he was called up by an expreſs direction from the houſe of Lords, and

* This was a bill of tonnage and poundage for a limited time, ſent up by the Commons, and rejected by the Peers.

dif-

diſplayed ſuch a zeal for the court in the buſineſs of the Petition of Right, on the cenſure of the commiſſion to raiſe money, and in urging the paſſing a bill of tonnage and poundage, that he obtained a private audience with the King and duke. On ſome advice which he gave how to allay the animoſity of the Commons, it was determined that a degree of indulgence ſhould be ſhewed to the Puritans. This inflamed Laud's malice to ſuch a height, that Williams was perſecuted without ceaſing by the tools of this prelate, and at length a Star-chamber bill was drawn up againſt him, on pretence that he had betrayed the King's counſel, in telling to Sir John Lamb, Drs. Sibthorp, Burden, and Allen, four of Laud's creatures, and officers in the eccleſiaſtical courts*, that it was the royal pleaſure the Puritans ſhould be treated with ſome condeſcenſion †. Anno 1637.

A commiſſion was ſet on foot to enquire if he took any bribe whilſt he kept the great ſeal. The prebendaries of the church of Weſtminſter were prevailed on to prefer articles of miſ-government againſt him ‡. A kind of bargain was carrying

* Sir John Lamb was dean of the arches. He owed his fortune to Williams, and had by his intereſt eſcaped parliamentary cenſure. *Fuller's Church Hiſt.* B. XI. p. 155.

† The biſhop put in an anſwer, that this was a conſpiracy and combination of the perſons named in the bill; *viz.* Sir John Lamb, *&c.* from an intent to advance themſelves, and hatred they bore to him for not permitting them to get money out of the King's ſubjects in Leiceſterſhire, by hauling them into their nets, *ex officio mero*, under an imaginary colour of Puritaniſm. All which made for the defendant in this anſwer was expunged by the court, on pretence that none muſt impeach the credit of the King's witneſſes, who depoſing *pro domino rege* muſt be reputed holy and ſacred in what they aver. *Fuller's Church Hiſt.* B. XI. p. 156, *& ſeq.*

‡ A very unequal tax was laid upon him in the levy of ſhip-money. When he requeſted Cottington to inform him what he ſhould do to obtain his peace, Cottington anſwered, that

Anno 1637. on, that Williams ſhould part with four thouſand pounds, his deanry, and two commendams, or pay eight thouſand pounds to the King's uſe. Laud, unwilling that he ſhould come off at ſo eaſy a rate, brought another falſe and frivolous charge into the Star-chamber againſt him, for tampering with the King's witneſſes, and ſuborning people to ſupport, by perjury, the credit of a man who was preſent when the converſation paſſed between him, Lamb, and Sibthorp, and was to give teſtimony in his favor. This ridiculous accuſation was in the caſe of a baſtard-child; an offence which could not poſſibly affect the judicial teſtimony of the offender. Though it was apparent that the proſecution was a malicious conſpiracy againſt the liberty and property of the biſhop; though it was managed by tools notoriouſly profligate; yet it employed the members of the Star-chamber nine days: and at laſt ſentence was given, That Williams ſhould pay ten thouſand pounds to the King; ſuffer impriſonment during pleaſure; be ſuſpended from his eccleſiaſtical function *; delivered over to the High-

that his majeſty did not like he ſhould be ſo near a neighbor to Whitehall—he would be better contented if he would part with his deanry; that the luſtre in which he lived, the great company which reſorted to him, and his profuſe hoſpitality, were objected; it being not the King's meaning, that one whom he had plucked down ſhould live ſo high. On condition of his obtaining peace, the following hard terms having been offered to Williams; *viz.* that he ſhould reſign the biſhopric of Lincoln, and deanry of Weſtminſter, and take a biſhopric in Ireland, he abſolutely refuſed them, ſaying, he had much ado to defend himſelf againſt Laud here; but if he was in Ireland, the earl of Strafford would cut off his head within one month. *Hacket's Life of Williams*, oct. ed. p. 184, *& ſeq. Clarendon's Hiſt.* vol. I. p. 274, *& ſeq.*

* During Williams's ſuſpenſion, Laud exerciſed every kind of eccleſiaſtical juriſdiction in the dioceſe of Lincoln. He ſent a warrant to the prebendaries of the collegiate church of Weſt-

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commiſſion court; and moreover to pay one thouſand marks to one Sir John Munſon, whom he had accuſed of mal-practices againſt him *. Laud made a long pedantic ſpeech on the occaſion: he labored to perſuade the court, that he had endeavored on his knees, five ſeveral times, to ſerve the biſhop with the King; but that his obſtinacy in not owning his offence had defeated Anno 1637.

Weſtminſter, to act and paſs all orders during the ſuſpenſion of their dean. Theſe were to go in the dean's name. This commiſſion was deemed by the lawyers irregular and illegal. *Baker's Chronicle*, p. 457. *Whitlock*, p. 25.

* The plague having broke out in London, and all proceſſes at law ſuſpended, by a proclamation, till Hilary-term, the biſhop claimed the privilege that his cauſe might be deferred till then. The lord-keeper Coventry told him, that the proclamation was clear on his ſide, but he had ſpecial directions that he ſhould have no benefit of it.

Before the members of the Star-chamber ſat in judgment on this cauſe, they debated in another room concerning the puniſhment they ſhould inflict on Williams; and it was with ſome difficulty that the more moderate members, who feared the buſtle ſuch a buſineſs would make, prevented his being degraded, with a view of inflicting on him corporal puniſhments, whipping, branding, cropping ears, and the pillory. Finch and Windebank, two of Laud's moſt devoted tools, declared that if others would have concurred, they would have laid ſome ignominy on Williams's perſon. Laud's malice got the better of his zeal for the dignity of biſhops: he not only endeavored to inflict on Williams this baſe puniſhment, but juſtified his inſtrument, Kilvert, in publicly affronting him in the groſſeſt manner. Finch, to whom Lincoln had formerly been very friendly, altered a certificate which he and ſome of his fellow-judges had ſigned in his behalf: on being queſtioned for this, he anſwered, that he had been ſoundly chidden by his majeſty, and would not deſtroy himſelf for any man's ſake. In this trial Finch declared, and the lord-keeper Coventry joined with him in opinion, that it was not neceſſary in that court to have a truth proved by two or three witneſſes: "For my part, ſaid Finch, *ſingularis teſtis* ſhall many times move and induce me verily to believe an act done, when more proofs are ſhunned." *Hacket's Life of Williams*, oct. ed. p. 189, *& ſeq.* fol. ed. part II. p. 125. *Ruſhworth*, vol. II. p. 416, *& ſeq.*

all

MVSEVM BRITANNICVM

Anno 1637. all applications in his favor *. He told a tedious impertinent ſtory from St. Auſtin concerning St. Cecilia's trial; inveighed bitterly againſt the ſin of perjury; ran through the whole detail of its progreſſion; ſhewed that the Holy Ghoſt had made no mention of ſuch a crime for the firſt three thouſand years of the world; that the Holy Ghoſt had refuſed to name Jezebel's falſe witneſſes, otherwiſe than under the character of men of Belial; related the determination of councils concerning the crime; inſinuated that the ſentence was a very merciful one—for the wiſeſt nations, on the like occaſions, had inflicted death; therefore, though he much compaſſionated the biſhop's fate, yet, conſidering his guilt was ſo great, he did agree with the heavieſt cenſure.

Echard, p. 462. Kilvert, a profligate man, and an eſpecial inſtrument of Laud, was appointed to levy the fine. In the execution of this commiſſion he did all poſſible miſchief to the property of the unfortunate priſoner: he felled his timber, killed his deer, ſold his goods for a twentieth part of what they coſt. The biſhop's benefices, lands, and leaſes were offered to be rented at four thouſand five hundred pounds *per* year, with ſufficient ſecurity to pay the King. Kilvert brought a letter from ſecretary Windebank, to direct the jury to receive no evidence againſt the King's profit, but to find the particulars at half the rate, or leſs: the jury obeyed the direction, and Kilvert and

* The following paſſage, in an account of this buſineſs written to Wentworth by one of the court-paraſites, ſhews fully the ſtyle of thinking and talking of theſe contemptible beings. "The biſhop's pride and obſtinacy in not ſubmitting to the King in due time has undone him; nay, ſince his cenſure they ſay he pleads to all his friends his innocency, or elſe he is horribly belied." *Strafford's Letters*, vol. II. p. 87.

MVSEVM BRITANNICVM

his gang lived upon the eſtate, and collected the rents at their pleaſure. Under all theſe mortifications, Lincoln not ſubmitting to certain propoſitions, Laud raiſed another proſecution againſt him, for licenſing a book called "The Holy-Table Name and Thing," of which he was the ſuppoſed author. Whilſt in priſon, a third information was lodged againſt him in the Star-chamber, on the ſhameful pretence of having concealed a letter written by one Oſbaldiſtone, a ſchool-maſter, in which mention was made of "a little great man, a little urchin." This letter had been ſeized among Lincoln's furniture and books; and, by inferences and conſtructions, the epithets in it were applied to Laud. Williams was tried for entering into a conſpiracy with Oſbaldiſtone, to contrive and divulge ſcandalous libels againſt the archbiſhop and the ſtate. Notwithſtanding it was pleaded, that the evidences which appeared againſt him were his own ſervants; that they had been lately cenſured for tampering with witneſſes, and were perſons expecting the mercy of the court *; and moreover, that the witneſs Walker, Lincoln's ſecretary, had commiſſion to open his letters in his abſence, and if thoſe letters were found at his houſe they were laid up and concealed by the ſaid Walker †; yet Anno 1637.

* They had been all cenſured; but their fines were commuted into offices of ſerving as witneſſes againſt Williams. *Echard*, p. 462.

† The ſubſtance of the biſhop's defence was denying the fact. Banks the attorney-general obſerved, that from this circumſtance he was guilty of perjury, and that perjury was puniſhable in that court, though not charged in the information. In the courſe of this trial, this ſervile and iniquitous doctrine was highly aſſerted, that if a libel was concealed concerning a private perſon, it was no offence; but if it concerned a public officer, the concealer to be puniſhed as a libeller. After Lincoln was ſuſpended by the High-commiſſion,

Anno 1637. he was ſentenced to pay five thouſand pounds to the King, and three thouſand to the prelate. Oſbaldiſtone to pay five thouſand pounds to the King, and five thouſand to the archbiſhop, and to ſtand with his ears nailed to the pillory in Dean's-Yard, before his own ſchool *. In the ſpeeches which each member made in paſſing this ſcandalous ſentence, they took an occaſion to run out in encomiums upon Laud. The earl of Dorſet reviled Oſbaldiſtone, who was a man of great eminence in his profeſſion, in the ſame low ſtyle as he had before uſed to Prynne. Juſtice Brampton ſaid, that he ſhould not ſtand upon the validity of the witneſſes, for he was convinced that Lincoln was guilty. And the lord-keeper obſerved, that Lincoln had been thrice examined upon the letter, which was a ſhrewed argument to him that he knew there was ſcandalous matter contained in it †.

Theſe unjuſt proſecutions carried on againſt this biſhop, notorious in their nature, were particularly the object of public attention and reſent-

miſſion, he was twice examined in the Tower by two biſhops and three doctors, on articles which took up twenty-four ſheets of paper written on both ſides. They were all of them of the following ſort: Whether all books licenſed by his grace of Canterbury's chaplain, as Manwaring's Sermons, &c. were not to be preſumed by all true ſubjects to be orthodox, and agreeable to ſound religion; concerning biſhop Williams having ſaid, that all fleſh in England had corrupted their ways; that he had called a book entitled "A Coal from the Altar," a pamphlet, &c. Though Lincoln gave very wary anſwers to every one of the articles, yet on theſe examinations he was repreſented to the King as much diſaffected to the preſent government. *Ruſhworth*, vol. II. p. 803, & *ſeq.* *Fuller's Church Hiſt.* book XI. p. 159.

* He ſaved his ears by abſconding, and keeping himſelf concealed.

† Finch and Windebank voted, that the biſhop's fine ſhould be ten thouſand pounds. *Ruſhworth*, vol. II. p. 811.

ment, from that quick ſenſibility which was at this time among the people, proceeding from the government having irritated them without ceaſing, not only by tyrannical acts, ſubverſive of the conſtitution, but by barbarous violations of all laws, human and divine. It was for this reaſon that Lincoln met with great pity from the populace, who thronged every day to the court of Star-chamber to attend his trial. Anno 1637.

Immediately before this biſhop was brought on the ſtage, their attention had been riveted on an object of a yet more intereſting nature. Burton a divine, Baſtwick a phyſician, and Prynne, the ſame lawyer who had already been ſo cruelly handled in the Star-chamber, provoked anew the furious Laud, by ſeveral publications againſt the *jus divinum* of biſhops. Theſe books, though they contained diſagreeable truths, yet they were written in ſo fanatic and diffuſive a ſtyle, that nothing but the extreme ſcarcity of performances on this ſide of the queſtion, occaſioned by the reſtraint on the preſs, with the averſion the public had to the preſent pretenſions of the church, could have procured them a tolerable reception. Dr. Baſtwick, for publiſhing a work entitled, *Flagellum Pontificis & Epiſcoporum Latialium*, had his houſe ranſacked by a purſuivant, all his books and papers carried off, himſelf accuſed in the High-commiſſion court, there fined one thouſand pounds, excommunicated, debarred from the practice of phyſic, his books ordered to be burnt, and his body impriſoned till he ſhould make recantation. Whilſt under confinement, he wrote another book, taxing the proceedings of the High-commiſſion court. Mr. Burton had not only publiſhed ſeveral books offenſive to the hierarchy, but had preached a ſermon on the fifth

Proſecution of Burton, Baſtwick, and Prynne.

Prynne againſt Prelates. Fuller's Church Hiſt. Ruſhworth.

Anno 1637. fifth of November, in which he pointed out many innovations in the forms of the Engliſh worſhip *. Prynne, though in priſon, had again employed his pen on the ſame ſubject. Theſe men Laud brought into the Star-chamber †. The delinquents, finding the terrors of the court had made their counſel ſhy, petitioned that they might ſign their anſwers themſelves ‡. This requeſt being denied, they with great ſpirit put in a croſs-bill againſt the prelates, charging them with uſurping upon the prerogative-royal with innovations; and ſet forth the ſubſtance of their anſwers §. The

* The following are ſome of the innovations with which he taxed the prelates, in a book entitled, "News from Ipſwich:" That divine ſervice on the faſt-days was enjoined to be without ſermons; that Wedneſdays were appointed for faſt-days, on purpoſe to ſuppreſs the lectures which were read on thoſe days; the changing the word "*in*" for "*at* the name of Jeſus every knee ſhall bow." *State Trials*, vol. I. p. 466, *& ſeq.*

† A large number of Burton's pariſhioners having ſent a petition to the King to entreat for his pardon and liberty, the two people who carried it were committed to priſon. *Strafford's Letters*, vol. II. p. 57.

‡ Prynne pleaded, that it was impoſſible for him to put in an anſwer at the time appointed by the court: for that in order to diſable him in the proſecution of his cauſe, his friends were reſtrained from him; he was prohibited acceſs to his counſel; debarred the uſe of pen, ink, and paper; and moreover, his ſervant, who ſhould ſolicit his buſineſs, and help to copy and engroſs his anſwer, was by Laud's direction detained a cloſe priſoner in a meſſenger's hands. On the receipt of this petition, counſel was ordered to repair to Mr. Prynne; but when his anſwer was drawn up, it yet remained unſigned, for that his counſel Holt was forbid to put his name to it. Moreover, Gardiner, a clerk belonging to the Tower, for writing the petition, was by a warrant from the archbiſhop apprehended by a purſuivant, and kept a priſoner fourteen days. *Prynne againſt Prelates*, 4to ed. 1641, p. 29, *& ſeq.*

§ On this unexpected exertion, Laud obtained the following certificate from the juſtices of the court of King's Bench, Common Pleas, and the barons of the Exchequer: "That proceſs may iſſue out of the eccleſiaſtical courts in the name of

court of Star-chamber refuſed to receive the croſs-bill againſt the biſhops*. Mr. Burton got one Holt a lawyer to draw and ſign his anſwer. Finch told Holt, that he deſerved to have his gown pulled over his ears for drawing it†. All the anſwer was expunged, excepting the plea of Not Guilty. Burton refuſing to be examined, Anno 1637.

of the biſhops; that a patent under the great ſeal is not neceſſary for the keeping the ſaid courts, or the enabling of citations, ſuſpenſions, excommunications, or other cenſures of the church; and that it is not neceſſary that proceſſes eccleſiaſtical in the ſaid court, or corrections of eccleſiaſtical offences, be in the King's name, or with the ſtyle of the King, or under the King's ſeal, or that their ſeals of office have on them the King's arms; and that the ſtatute of the firſt of Edward VI. cap. 2. which enacted the contrary, is not now in force. We are alſo of opinion, that the biſhops, archdeacons, and other eccleſiaſtical perſons, may keep their viſitations as uſually they have done, without commiſſion under the great ſeal of England ſo to do." This certificate was by the King's directions enrolled in the courts of Exchequer, King's Bench, and Common Pleas, and regiſtered in the courts of High-commiſſion and Star-chamber. Moreover, a proclamation was iſſued to ſtop the mouths of all unquiet perſons, that they ſhould not for the future preſume to cenſure his majeſty's eccleſiaſtical courts in their juſt and warranted proceedings. —— Charles, who was ſo tenacious of power, thus diſclaiming a prerogative allowed him by the major part of his ſubjects, is a very remarkable inſtance of the potent influence theſe prelates, by flattery and cant, had gained over his vain and ſuperſtitious mind. *Rymer's Fœdera*, vol. XX. p. 144. 156. 168.

* It was committed to the judges to give their opinions, whether the three complainants might not be tried in the King's Bench for their lives for ſedition? But the judges reſolved that they could not, becauſe the bill was tendered in a legal way, and might not in point of law be refuſed; the King's courts of juſtice being open indifferently to all his ſubjects to ſue and be ſued. *Prynne againſt Prelates*, p. 20.

† Mr. St. John, of Lincoln's Inn, upon a ſuſpicion that he had a hand in drawing Burton's anſwer, had his ſtudy ſearched, and all his papers carried off. *Strafford's Letters*, vol. II. p. 85.

unleſs

Anno 1637. unleſs his anſwered was admitted; the court ordered the matter of the information to be taken againſt him *pro confeſſo*, rejected the anſwers of his co-defendants becauſe they could not get lawyers to ſign them in proper time, and proceeded to paſs ſentence. The three priſoners were condemned to loſe their ears in the palace-yard of Weſtminſter; to be fined five thouſand pounds each to the King's uſe; to perpetual impriſonment in three remote places of the kingdom, namely the caſtles of Carnarvon, Cornwall, and Lancaſter *. Finch added to Mr. Prynne's cenſure, that he ſhould be branded in each cheek with S. L. for a ſeditious libeller. To this the whole court agreed. Laud made a long ſpeech to excuſe himſelf and brother-prelates from the charge of introducing innovations; aſſerted that the King was the perſon principally abuſed by the adverſe party; he ſhewed, that zeal without knowledge was a dangerous quality, himſelf breathing out with ardor an enthuſiaſtic attachment to all the trifling ceremonies he had with ſuch an indiſcreet rigor exacted; he railed with the utmoſt gall

The ſentence paſſed on them.

* The priſoners attempted to ſpeak for themſelves, but were commanded ſilence. Prynne endeavoured to expoſtulate on his caſe, that it was not in his power to compel his counſel to ſign his anſwer, when they refuſed. The following dialogue, which paſſed in the Star-chamber, is another curious ſpecimen of the behavior of the officers of law and ſtate in this reign: The firſt time Finch fixed his eyes on Prynne he ſaid, "I thought Mr. Prynne had had no ears; but it ſeems he has ears, and ſomething elſe." Mr. Prynne ſaid, "My lords, there is never a one of your honors but would be ſorry to have your ears as mine are." "In good faith, ſaid the lord keeper, he is ſomewhat faucy." "I hope your honors will not be offended, replied Mr. Prynne: Pray God give you ears to hear." On this trial the biſhops declared in open court, that they held their juriſdiction from God only. *State Trials*, vol. I. p. 461. *Whitlock*, p. 22.

and

and bitterneſs againſt the unhappy priſoners, whilſt he magnified his own religious patience in bearing injuries; laſtly, he fell upon the book ſuppoſed to have been publiſhed by the biſhop of Lincoln, and ſaid that the author had abuſed both himſelf and his readers; and ended his ſpeech with giving the court thanks for their cenſure on the three priſoners *. Anno 1637.

The cruel ſentence paſſed on Prynne, Burton, and Baſtwick, was yet more cruelly executed: The hangman performed his bloody office with an approved barbarity. Burton's ears were taken off ſo cloſe, that a conſiderable branch of the temporal artery was wounded, and the blood ſtreamed down the ſcaffold. Prynne's were hacked barbarouſly; he loſt a large piece of his cheek with the remainder of his ears, and the executioner applied the burning iron twice to the branding of one cheek. The patient and even magnanimous behavior of the ſufferers heightened the pity and inclination of the people: They crouded with impatience round the ſcaffolds, and every wound given by the executioner produced

* This ſpeech of Laud pleaſed Charles ſo much that he ordered it to be printed and publiſhed. The archbiſhop prefixed to it a flattering dedication to the King, in which he aſſerts, that blaſphemy againſt God, and ſlandering the footſteps of his anointed, were joined together: "For he who blaſphemes God will never ſtick at the ſlander of his prince; and he who gives himſelf the liberty to ſlander his prince will quickly aſcend the next higheſt, and blaſpheme God." He magnified the royal clemency in bringing the offenders to a court of mercy as well as juſtice; and inſinuated, that the times demanded greater ſeverity than had been hitherto exerciſed.

In the courſe of his defence he was guilty of an abſurd overſight, in alleging that the King had no enemy, when at the ſame time the ſhip-writs ſignified that the kingdom was in imminent danger. *Laud's Remains*, vol. II. p. 63, *& ſeq. State Trials.*

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Anno 1637. an univerſal groan and lamentation. The three heroes of this tragic ſcene harangued the populace in their turns: Prynne, with ſome ſenſe and dignity, told them, that rather than have his cauſe a leading cauſe to deprive the ſubjects of their liberty, he had expoſed his perſon to be a leading example to bear that ignominious puniſhment; he proved to them the illegality of the ſentence paſſed on himſelf and fellow-ſufferers; that there was no law in the realm which authorized ſuch tyranny, the ſtatute of queen Mary limiting the puniſhment of a libeller, even of the King or queen, to a fine of one hundred pounds, and one month's impriſonment, no corporal puniſhment, unleſs the delinquent refuſes to pay the fine; in the ſtatute of Elizabeth, the penalty was heightened to a fine of two hundred pounds, and three month's impriſonment; but no cenſure to be paſſed unleſs it was fully proved by two witneſſes, who were to produce a certificate of their good demeanor, for the credit of the report, or elſe the crime to be confeſſed by the libeller *. In the courſe of Prynne's harangue he told the people, that the offence which himſelf and fellows had committed was the not allowing the calling of biſhops to be *jure divino*; that might he be admitted fair diſpute, he would maintain this point againſt all the prelates in the world. On this his

* From what Mr. Prynne here advances it is plain, that heavy fines, long impriſonment, and thoſe ignominious puniſhments of whipping and the pillory, for writing libels, are contrary to ſtatute-law. That they are inconſiſtent with Liberty is obvious; ſince it is incongruous to the privileges of a freeman to be ſubject to theſe ſlaviſh corrections, for other than for crimes which debaſe his nature as a man. The conſtitution of this country has never been purged from the venom with which it was infected by the erection of the Star-chamber: Its infamous doctrine and ſervile diſcipline have in many inſtances been adopted in the courts of common law.

audience

audience gave a loud and general ſhout *. The popularity theſe three men had gained by their ſufferings was ſo formidable to Laud, that he procured an order for removing them from the deſtined places of their confinement to Guernſey, Jerſey, and Scilly †, with ſpecial directions that Anno 1637.

* Laud, whilſt he was ſitting in the Star-chamber, being told of the nature of Prynne's harangue, moved, that he might be gagged, and have ſome farther cenſure laid on him. This motion the court did not contradict, but waved it, by telling Laud, that it was beneath him to notice what men ſpake when they were in pain on the pillory.

Of this Laud complains to his friend Wentworth in the following ſtrain; "What ſay you that Prynne and his fellows ſhould be ſuffered to talk what they pleaſed while they ſtood in the pillory, and win acclamations from the people, and have notes taken of what they ſpake, and thoſe notes ſpread in written copies about the city? And that when they went out of town to their ſeveral impriſonments, there were thouſands ſuffered to be on the way to take their leave, and God knows what elſe? When any thing comes to be acted, be it but the execution of a ſentence in which lies the honor and ſafety of all juſtice, yet there is little or nothing done; nor ſhall I ever live to ſee it otherwiſe." Wentworth, whoſe malice and miſchief were at leaſt equal to Laud's, returned anſwer, that the eyes of the triumvirate were not ſealed ſo cloſe as they ought to have been.

This profligate tool of power ſpit his venom on a character which had deſervedly gained the applauſe of every good and unprejudiced individual in the kingdom; this was the patriot Hamden; of whom he writes to Laud in the following ſcurrilous ſtrain: "In truth, I wiſh that Mr. Hamden, and others to his likeneſs, were well whipt into their right ſenſes. If that the rod be ſo uſed as that it ſmarts not, I am the more ſorry." *Prynne againſt Prelates*, p. 44, & *ſeq. Strafford's Letters*, vol. II. p. 99, & *ſeq.* p. 119. 158.

† Prynne to the caſtle of Mont-Orgueil in the iſle of Jerſey; Burton to Caſtle-Cornet in the road of Guernſey; and Baſtwick to St. Mary's Caſtle in the Iſle of Scilly. During this their rigorous confinement, they had no allowance of diet from the crown, but were kept by the charitable contributions of their friends. About this time, Leighton was alſo removed to one of the remoteſt priſons in the kingdom. *Echard*, p. 461. *Prynne againſt Prelates. Strafford's Letters*, vol. II. p. 85.

they

Anno 1637. they ſhould be conveyed privately, and no one to come near them during their paſſage; they were forbid to have any but canonical books; reſtrained the uſe of pen, ink, and paper, and all communication whatſoever. The wives of Baſtwick and Burton were not permitted to ſet their feet on the iſlands where their huſbands were confined*.

Proſecution of Lilbourne, Wharton, and others. Ruſhworth, vol. II. p. 463, & ſeq.

The next victims to Laud's inſatiable rage were John Lilbourne and John Wharton, accuſed in the Star-chamber for publiſhing forbidden books. Theſe men refuſing to take an oath to anſwer interrogatories, and pleading that no Engliſhman was bound by the law to accuſe himſelf,

* Laud's malice againſt theſe men carried him ſuch an abſurd length, that ſome few individuals of the town of Cheſter having viſited Prynne in his way to Carnarvon, they were proſecuted by the High-commiſſion; their houſes broke open and ranſacked by purſuivants; fined large ſums of money; and to make public acknowledgment of their crimes in the cathedral-church and in the town-hall of Cheſter. All the lecturers and preachers in the city were enjoined, in their lectures and ſermons, to make public expreſſion of their hearty deteſtation of the offences for which the three offenders were cenſured. This order was ſo well obeyed by ſome, that the churches for many days reſounded with the moſt bitter invectives. This did not ſatisfy Laud: he deſcended to ſo mean an inſtance of malice as to perſecute a painter in Cheſter who had drawn ſeveral pictures of Prynne. All the ſaid pictures were, by a warrant from the High-commiſſion, ordered to be ſpoiled and defaced, and the frames to be publicly burnt. Prynne's ſervant, whom Laud had detained a priſoner, having been in vain attempted by promiſes and threats, and conſtantly refuſing to accuſe his maſter, was articled againſt in the High-commiſſion court; and for his refuſal to take an *ex officio* oath before ſight of the articles, the articles were taken againſt him *pro confeſſo*. He was fined one thouſand pounds to the King, condemned to pay coſts of ſuit, (though there was no proſecutor aſſigned) excommunicated, committed cloſe priſoner to the Counter, and afterwards ſent down to Weſbeck-Caſtle. *Prynne againſt Prelates*, 4to. *paſſim*.

himſelf, they were condemned to be whipped, pilloried, and impriſoned. While execution was performed on Lilbourne, he harangued the populace, and declaimed againſt the tyranny of biſhops. The Star-chamber ordered him to be gagged, and added to his former puniſhment, the lying in irons, and confinement in that part of the Fleet where the baſeſt and meaneſt ſort of priſoners are uſed to be put. Anno 1637.

Neither women, lunatics, nor fools, eſcaped the fury of the archbiſhop's revenge and bigotry. On ſome diſagreeable news coming to court, Archibald Armſtrong, the King's jeſter, ſeeing the prelate paſs by, called out, "Whaw's feule now:" for this offence the harmleſs buffoon, who by his office had the privilege of paſſing jokes with impunity, was ordered, by a ſentence of the council, to have his coat pulled over his head, and to be diſmiſſed the King's ſervice. The lady Davies, a woman diſordered in her ſenſes, for having propheſied Laud's death, was proſecuted in the High-commiſſion court. And the lady Purbeck, Sir Edward Coke's daughter, on the ſuſpicion of having an intrigue with Sir Robert Howard, and for ſome words ſpoken in reſentment againſt Laud, was condemned to do penance bare-foot, was committed to the Gate-houſe, and for the ſpace of ſeveral years perſecuted ſo hotly by that prelate, that ſhe was obliged to conceal herſelf in different parts of the dominions, and at length made her eſcape in mens cloaths, and fled to France; where yet ſhe did not find repoſe from the malice of her enemies. Sir Robert Howard, who had been once reſcued by the parliament from an arbitrary ſeizure, was now, without any regular proceeding paſſed againſt him, committed to priſon, and

Heylin, p. 266, Sanderſon, p. 105.

Anno 1637. and there ordered to lie till he ſhould produce the perſon of the abſconded female. He was at length releaſed, on his giving a bond of one thouſand pounds that he would never ſee the lady Purbeck again. The poor woman's perſecution did not ceaſe here: an expreſs meſſenger with a privy-ſeal was ſent after her, to ſummon her into England, under pain of being farther proceeded againſt.

Ruſhworth, Appendix, vol. III. p. 65. One Bowyer, who was half mad, for having ſpread a report of Laud, that he was under cenſure for correſpondency with the pope, was committed to cloſe confinement to Bridewell during life; fined three thouſand pounds; to be ſet in the pillory at Weſtminſter and Cheapſide, with a paper on his head acknowledging his offence; to be branded in the forehead with the letters L and R, and to have his ears nailed to the pillory at Reading.

Hume's Hiſt. vol. I. p. 216. Some young gentlemen of Lincoln's Inn having, on a time when they were heated with wine, drank "Confuſion to the archbiſhop," the revengeful prelate cited them before the Star-chamber: they eſcaped, with difficulty, the diſcipline of this court, by ſaying that one of the drawers, the only evidence againſt them, was miſtaken, and that they had drank "Confuſion to the archbiſhop's enemies*."

* Before I conclude this detail of the acts of violence and tyranny committed by Laud, and through his means, I muſt remark the caſe of one Foxly, a divine, who had ſhewed himſelf zealous in the buſineſs of buying in impropriations. The houſe of this man was rifled by virtue of a general warrant to ſearch for Popiſh books and ſuſpected perſons; and himſelf, without any judicial proceeding againſt him, cloſe impriſoned twenty months, to the great damage of his health, denied the uſe of pen, ink, and paper, and the company of his wife and friends. *Prynne's Trial of Laud*, p. 387, *&c ſeq.*

Among

Among the violations of the Petition of Right, there was at this time a complaint made, that Sir Robert Berkley had refuſed bail or releaſe upon their Habeas Corpus to Jennings, Pargiter, and Danvers, three men who had been committed by the King and council. Berkley had denied writs of Habeas Corpus to ſeveral individuals who had demanded them; and when they had been granted, he conſtantly remanded the priſoners, though they were by the law clearly bailable *. Anno 1637. Rushworth, vol. II. p. 414, & ſeq.

The enormous, yet increaſing height of monarchical tyranny which raged at this time in England, together with the ſmall proſpect of redreſs the times promiſed, occaſioned numbers of the natives to ſell their eſtates, and to ſhip themſelves off for America, there to enjoy a Liberty loſt to the inhabitants of Great Britain †. But thoſe avowed Many reſolve to leave their native country.

* The monopolies and other impoſitions of this year were, The erecting a company of maltſters and brewers, with a prohibition that none but the inhabitants of the city of London, and the out-dwellers for four miles extent, ſhould, without a licence to be had of the ſaid company, make malt or brew beer.

A ſpecial commiſſion for licenſing the keeping hackney-coaches and horſes, granted to the marquis of Hamilton.

An office erected for the ſealing butter, with a power to the commiſſioners to go and enter into fairs, markets, ſhops, warehouſes, ports, harbors, ſhips, veſſels, and other places whatever, to ſearch and diſcover butter put to ſale unbranded, or branded with any counterfeit brand.

Another commiſſion was erected for the marking caſks, with the ſame power of entrance into ſhops, warehouſes, houſes, and cellars. *Rymer's Fœdera*, vol. XX.

† In the year 1635, the lord Say and Seal, and the lord Brook, ſent one Fenwick to prepare a retreat for them and their friends on the continent of America. In conſequence of this commiſſion, a ſmall town was built, and called by their joint names, Saybrook. *Walpole's Catalogue of Royal and Noble Authors*, ed. 1759, vol. I. p. 206.

Anno 1637. deſtroyers of all the rights of humanity, the boſom-friends and miniſters of Charles, unwilling that their fellow-citizens ſhould any where poſſeſs the bleſſings of Freedom, prevailed with their maſter to iſſue out a proclamation, debarring the adventurers acceſs to thoſe uncultivated ſhores. Eight ſhips lying in the Thames, and ready to ſail, were ſtayed by an order of the council *. Embarked in theſe were Sir Arthur Haſlerig, John Hamden, and Oliver Cromwell, three men of ſpirit, who reſolved for ever to abandon a country where the laws had loſt their power to protect, and fly to the other extremity of the globe, there to endure a painful ſolitude in wild deſarts, rather than ſubmit to a government which degraded their ſpecies beneath the condition of beaſts †!

* A warrant was likewiſe given to the lord-admiral to remand back thoſe miniſters who had already left England without the approbation of the archbiſhop of Canterbury, or biſhop of London.

† Laud expreſſes to Wentworth his ſurprize at this inclination, on the latter's having complained that he wanted men to complete the plantations of Ormond and Clare: "I am ſorry that you want men to fill that marvellous great work for the honor and profit of the King, and ſecurity of the nation. This is the more conſiderable a great deal, that you ſhould want men in Ireland, and that the while there ſhould be here ſuch an univerſal running into New-England. But thus it is, when men think nothing is their advantage but to run from government." *Strafford's Letters*, vol. II. p. 169.

CHAP.

CHAP. V.

State of religion in Scotland.——Commotions in that kingdom.——The King and the Scots prepare for war.——Conduct of the deputy of Ireland.——Arbitrary oaths impoſed there and in England.——The King's forces retreat before the Scots.——Pacification.——Naval engagement in the Downs. Diſſimulation of Charles.——Scotch tranſactions.——Preparations for another war.——Parliament in Ireland.——Parliament in England.——Diſſolution——Acts of power.——Convocation.——Impoſitions.——Retreat of the Engliſh forces.——Council of peers.——Treaty of Rippon.

THE grievances under which England labored were ſo oppreſſive, that the nation may juſtly be reproached for its ſeeming inſenſibility. Life, freedom of perſon, and poſſeſſion of property, were held by a precarious tenure. The laws, diſarmed of their wonted power to protect, lay proſtrate at the foot of the throne, to be trampled upon with impunity: nor was the condition of any individual in the kingdom great enough to ſecure him from the laſh of royal and eccleſiaſtical prerogative. Notwithſtanding a ſervitude thus miſerable and ignominious, the patriot party found it impoſſible to rouſe the heavy multitude to action, or engage them to reſiſt the growing evil. The patient herd yet waited their redreſs from parliament, though there was not at this time a proſpect that the King would ever be reduced to the neceſſity of calling one. Not the moſt diſtant hopes of relief ſubſiſted, when a ſmall cloud began to riſe in the North, encreaſing its ominous appearance, till it produced a ſtorm Anno 1637.

Anno 1637. which ſpread itſelf all over the Britiſh dominions; and at length deſcended with memorable execution on that complicated fabric of imperious power which had many years domineered in this country.

The Scots had a long time murmured at the innovations made by Charles and his father in their eccleſiaſtical and civil liberties: theſe murmurs, by repeated provocations, aroſe to a mutiny, and that mutiny to an avowed aſſociation to defend the conſtitution of their country againſt the dangerous invaſion of the crown. To ſhew the nature of thoſe injuries which urged this brave and ſpirited people to arm in defence of their violated rights, and thus to lead the way to Freedom and to Glory, it will be neceſſary to take the ſubject up higher than the preſent period, and ſhew the illicit ſteps of power which were taken in the preceding reign.

State of religion in Scotland.

The government of the reformed church of Scotland was, by the ſtate of that kingdom, ſettled on the plan of the churches of Switzerland; and the preſervation of its diſcipline was committed to the care of preſbyteries, provincial and national ſynods. Nor did the prelates obtain other favor, than leave to enjoy their revenues, on condition that they ſhould embrace the reformation, and maintain miniſters. Queen Mary, aſſiſted with the Popiſh party in the kingdom, found means to prevent the parliament from paſſing an act whereby epiſcopacy ſhould be expreſly aboliſhed. Nevertheleſs, the national ſynod, or general aſſembly, to whom from their firſt inſtitution was entruſted a great authority, ſolemnly approved of the Geneva diſcipline, and parity among miniſters. In 1587, after many ſtruggles of the court to re-eſtabliſh epiſcopacy,

Spotſwood, p. 175.

and

and after ſome acts of parliament had been obtained in favor of biſhops, the parliament annexed to the crown all the lordſhips and baronies appertaining to archbiſhops, biſhops, abbots, &c. In 1592, all the acts in favor of prelacy were repealed, and the juriſdiction of biſhops aboliſhed. This act was confirmed in 1593; and in 1594 the authority of preſbyteries was ſolemnly acknowledged. King James, who was continually entering into projects to enlarge his power, found that epiſcopacy was a neceſſary eſtate in parliament, and carried an act in 1597, which granted the privilege of a voice to the whole church, and, under that name, to biſhops and abbots, even as in times of Popery; but this was to be no prejudice to the eſtabliſhed diſcipline and juriſdiction of the church.

Anno 1637. Spotſwood, p. 365, Nalſon, vol. I. p. 162, & ſeq.

To ſilence the oppoſition which this occaſioned, James called a general aſſemby, held at Montroſe in the year 1600, and preſiding himſelf, he preſſed ſo earneſtly the confirming the act which the parliament of 1597 had granted in favor of biſhops, that the aſſembly, rather than ſuffer the inconveniency of a rupture with a prince who was every day growing more powerful, complied with his requeſt, under the following conditions: "That the biſhops ſhould obtain a commiſſion from the general aſſembly, to whom they ſhould be accountable for the diſcharge of their office; that they ſhould move nothing without an expreſs order from the church, nor be ſilent when its liberties were in queſtion; that they ſhould ſubmit their conduct to the cenſure of the national ſynod, without appeal; that they ſhould not endeavor to enlarge their benefices, to the burthen of miniſters, nor ſuffer them to go to decay, nor diſpoſe of any thing belong-

Spotſwood, p. 458, & ſeq. Rapin, vol. X. p. 319, & ſeq.

Anno 1637. ing to them without the conſent of the King and general aſſembly; that they ſhould exerciſe the functions of paſtors in their own congregations, be ſubject to the cenſure of their own preſbyteries, the provincial and general aſſembly, like the reſt of the miniſters who were not commiſſioned; that they ſhould uſurp no power or juriſdiction beyond others; and that they ſhould not be members of the general aſſembly, unleſs they were expreſly deputed by their preſbyteries."

When James acceded to the throne of England, he acquired ſuch an additional influence over the Scotch parliament, by the emoluments he was enabled to beſtow on the individuals of that nation, that in 1606 the act of annexation was annulled; and in 1609 the authority, privileges, and juriſdiction of prelacy were reſtored, and the biſhops took poſſeſſion of the government of the church, notwithſtand the conditions of the Montroſe aſſembly, none of which had ever been performed by them. The general aſſembly proteſted againſt the act, and affirmed the parliament had no power, without their conſent, to reſtore a ſpiritual office which had been aboliſhed. This having a great effect upon the people, James called a general aſſembly, to be held at Glaſgow; and by the help of the biſhops, who had now a great influence in elections, he gained before-hand a majority of votes, and accordingly the corrupt aſſembly gave its voice, that the biſhops ſhould reſume their ſpiritual function, and the government of the church. In 1617, the parliament, which was now entirely at the devotion of the crown, ordained that biſhops ſhould be elected by chapters, and conſecrated by the accuſtomed rites.

After

After epiſcopacy was thus fully reſtored, James, who had contracted an averſion for every thing which belonged to Calviniſm, and entertained a vehement deſire to introduce into Scotland the doctrine, as well as the diſcipline, of the church of England, impoſed upon that kingdom the five articles which have been mentioned in the hiſtory of his reign. The biſhops now bore an abſolute ſway in preſbyteries; and by making themſelves moderators, the general aſſembly was compoſed of deputies of their own election: this new innovation, therefore, was confirmed by one held at Perth in the year 1617*. James, who now drove on at a furious rate, ſet up in Scotland, by his own authority, a High-commiſſion, though the Scots had never even complimented their King with being ſupreme head of the Church. If any oppoſition yet remained, it was conquered by the ſeverities which this new court of judicature exerciſed; and an aſſembly at Aberdeen agreed, that it would be proper to draw up a liturgy to be uſed in every church in Scotland. Anno 1637.

The paſſion James had for rooting out Calviniſm was at length diverted by an object which engaged his whole attention, the matching his ſon with a daughter of Spain; and the church of Scotland, defaced in its form, and innovated in its diſcipline and faith, was ſuffered for ſome time to remain in repoſe: It was left to the more zealous and more inflexible ſon to complete what the father had left unfiniſhed.

* To render the church more at his devotion, James, when in poſſeſſion of the regal revenue of England, made an addition to the ſtipends of the miniſters; which, on their ſhewing a reluctance to comply with this innovation, was ſtopped for a whole year before this aſſembly was called. *Spotſwood*, p. 536.

Charles

Anno 1637. Charles, when he had, as he thought, firmly eſtabliſhed an uncontroled, unlimited power over Great Britain, ſeriouſly entered into the project of bringing about in the three kingdoms a perfect conformity to that form of worſhip he deemed moſt agreeable to abſolute monarchy. We have ſeen that James, in his ſcheme of enlarging his authority, endeavored to corrupt the democratical powers in church and ſtate, and render them the means of their own deſtruction: The more undaunted Charles kicked them out of the conſtitution, as he had entirely diſcarded parliaments in England, ſo he never ſuffered a national ſynod to meet in Scotland.

In the year 1633, when he returned from that kingdom, he left in charge with the biſhops there to compile a liturgy and a book of canons: Theſe were to be tranſmitted into England for Laud's approbation, who called to his aſſiſtance Juxon biſhop of London and Wren biſhop of Norwich; this laſt equalled the primate in bigotry, and in fourneſs of diſpoſition. Notwithſtanding the ſeeming triumphant ſtate of the monarch, the men of power and intereſt in Scotland did not ſo readily yield to his pretenſions as they had ſubmitted to the encroachments of his father. The ſplendor of his eſtate, at his acceſſion to the triple crown of Great Britain and Ireland, had, by its novelty and brilliancy, dazzled their eyes; the abjectneſs of the Engliſh nobility had infected them with a like tinct of ſervility; the profuſion of favors which the prodigal James had laviſhed on them rendered them for ſome time blind to the concerns of their real intereſts; but many circumſtances now concurred to take away that film of venality which had ſo long obſcured their judgment. Thoſe golden dreams of continuing

Clarendon, vol. I. p. 83.

the

the ſpecial favorite of a powerful monarch, of being conſtantly fed with the riches of England, whilſt they yet enjoyed their own conſtitution, were now vaniſhed, and the diſmal proſpect ſucceeded of their country ſinking into a province to a ſtate governed by tyrannic ſway. The weight of the yoke which they had helped to fix on their own necks grew inſupportable. The biſhops, who enjoyed the largeſt ſhare of the pious King's favors, exerted their new acquired authority with a provoking imperiouſneſs: not ſatisfied with the general High-commiſſion, they produced warrants from the King for ſetting up ſuch a juriſdiction in their ſeveral dioceſes; this was put in practice by the biſhop of Galloway. They exacted a new oath of intrants, in which they were obliged to obey the articles of Perth*, and ſubmit to the deſigned liturgy and canons. They got one Learmonth, a miniſter, preſented abbot of Lindores, and entered into a project, which was countenanced by the King, to get the ſtate of abbots, with the revenue and power belonging to it, reſtored into the hands of churchmen. Not contented with ſuch a plenitude of ſpiritual juriſdiction, they voraciouſly graſped the civil offices, which were dealt out to them with a bountiful hand by their bigoted maſter. Spotſwood, archbiſhop of St. Andrew's, was created chancellor, nine biſhops were privy-counſellors; they poſſeſſed places in the Exchequer, and an attempt was made to revive the firſt inſtitution of the college of juſtice, half of which were to be churchmen. Beſides theſe grievances, which were highly reſented by the Scotch nobility, the

Anno 1637.

Memoirs of the Duke of Hamilton. p. 30, & ſeq.

* At the paſſing the articles of Perth, it had been expreſly conditioned, that none ſhould be obliged to conform to them.

manner

Anno 1637. manner in which Charles had impoſed on them the law of reſumption of the crown-lands, and the law which enlarged his power in eccleſiaſtical matters, and confirmed religion in its preſent ſtate, rendered them quite deſperate. They concluded very judiciouſly, that the phyſic muſt be violent which reſtored the conſtitution to its natural health and beauty. Theſe ſentiments were concealed with the utmoſt caution; they waited with impatience the opportunity when Charles, by an act of apparent illegal power, ſhould convince the multitude that the times demanded a determined oppoſition.

The nature of the canons and liturgy which were to be impoſed on the nation was no ſecret to them; and it is ſaid that both ſides eagerly expected their publication; the biſhops to poſſeſs an addition to their power, and the nobility and diſcontented miniſters the occaſion which ſhould provoke the already-enraged multitude to mutiny *.

So wanton were Charles and Laud in the exerciſe of their power, ſo much did they deſpiſe any ſuppoſed oppoſition, that the canons, which ordained a punctual compliance with the liturgy, were publiſhed a whole year before the people were ſuppoſed to know what that liturgy was. The canons themſelves were of the moſt offenſive kind, containing matters ſo ſuperſtitious and arbitrary, that they left no doubt in the minds of the people what part it behoved them to act on the introduction of the liturgy. They aſſerted, that the King's power and prerogatives were in

* The extreme ſeverity with which the non-conformiſts had been lately uſed in England, inflamed the averſion which the Scots had to the government of biſhops. *Larrey*, vol. I. p. 336.

every

every thing equal to thoſe of the Jewiſh kings, abſolute and unlimited. They ordained, that no eccleſiaſtic ſhould become bound for any man; that no aſſembly of the clergy ſhould be called but by the King only; that eccleſiaſtical perſons, dying without heirs of their body, ſhould leave a good part of their eſtate to the church, and though they ſhould have children, yet to leave ſome to the church; that the clergy ſhould have no private meetings for expounding the ſcriptures; that they ſhould not pray extempore, but be obliged to pray by the printed form preſcribed in the liturgy; that whoſoever ſhould affirm that the form of worſhip inſerted in the Book of Common-Prayer, and Adminiſtration of the Sacraments, did contain any thing repugnant to the ſcriptures, or were corrupt, ſuperſtitious, or unlawful, in the ſervice and worſhip of God, ſhould be excommunicated, and not be reſtored but by the biſhop of the place, or archbiſhop of the province, after his repentance and public revocation of that wicked error; that no one ſhould teach ſchool without a licence from the biſhop of the dioceſe; that neither excommunication ſhould be pronounced, or abſolution given, but by approbation of the biſhop; that preſbyters ſhould not reveal what they received in confeſſion, except their lives became forfeited by concealment; that no perſon ſhould be admitted in holy orders, or perform any eccleſiaſtical function, without firſt ſubſcribing theſe canons. Anno 1637.

Notwithſtanding the effect which this publication muſt have on a people averſe to ſlavery, and who abhorred the moſt diſtant approach towards Popery, yet ſuch was the excellent order in which the multitude were kept by thoſe who guided the popular counſels, that nothing like a mutinous

Anno 1637. ſpirit appeared in the nation for the whole year theſe were promulged before the reading the liturgy. The general diſquiet was vented in ſuch low murmurs, that the biſhops exulted in a fancied ſecurity that the royal commands would meet with an obſequious obedience. The liturgy intended to be impoſed on Scotland was copied from that of England, except ſome alterations which ſeemed to approach nearer the doctrine of tranſubſtantiation *.

On the ſixteenth of July 1637, the miniſters in Edinburgh intimated from their pulpits, that the next ſabbath the new ſervice-book would be read in all the churches: This intelligence was received by their ſeveral congregations with an apparent compoſure; and, on the appointed day, the biſhop of Edinburgh came in great ſtate from Holyrood-houſe to aſſiſt at St. Giles's, the cathedral-church of the city. No ſooner was the fatal book opened, and the dean (arrayed in his ſurplice) began to read, than the multitude raiſed a frightful out-cry, clapping their hands and ex-

Commotions in that kingdom.

* One of the alterations was in the conſecrating prayer. "Sanctify by thy word and ſpirit theſe creatures of bread and wine, that they may be to us the body and blood of thy beloved ſon." One of the reaſons which Charles, in a declaration, gave for theſe alterations, was, that the Roman party might not upbraid us with any material difference in our liturgy. Mad. Motteville, a domeſtic of Ann of Auſtria, in her Memoirs of that Princeſs's Life, ſays, That Charles put the ſervice-book into his queen's hand, telling her, he would have her peruſe it, that ſhe might ſee how near they came to the faith. Guthrie the hiſtorian obſerves, that Laud had a view to farther refinements in the Engliſh liturgy, in compiling a new one for Scotland, which had in it, both in the doctrinal and exterior part, more of Popery than that which was at this time obſerved in England. *May's Hiſtory of the Parliament of England*, fol. ed. 1647, p. 31, *& ſeq. Fuller's Church Hiſt.* book XI. p. 160, *& ſeq. Guthrie's General Hiſt. of England*, vol. III. p. 935.

claiming,

claiming, "A pope! a pope! antichriſt! ſtone Anno 1637.
him! ſtone him!" The biſhop then mounted the pulpit, and prepared to reprove the people; but an old woman flinging a ſtool at his head, he quickly retreated from that place of eminence *. Spotſwood the chancellor commanded the provoſt, and the other magiſtrates of the city, to ſuppreſs the diſorders: They turned the moſt clamorous of the multitude out of the church, and the dean proceeded to read the liturgy. He was not at all attended to by the remaining congregation; and thoſe who were without broke the windows, and continued to pelt the reverend paſtors with ſtones and dirt: It was not without difficulty that the biſhop got home in a whole ſkin.

In this firſt onſet, there appeared no actors but of the lower ſort of people †. Traquaire the treaſurer, who had been the only layman conſulted in thoſe matters, in his diſpatches to the court, laid great blame on the biſhops for the violence and forwardneſs of their conduct, and ſeemed to inſinuate, that the King's commands might, with a more circumſpect carriage in the prelates, be eaſily accompliſhed, without farther reſiſtance. At the deſire of the magiſtrates of Edinburgh, the council interdicted the reading the liturgy till the people ſhould be more diſpoſed to receive it; and all things continued in a ſtate of quietneſs for ſome time: But on the ſeventeenth of October, when the harveſt was over, people from all parts of the country flocked to

* Biſhop Guthrie ſays, that it was concerted among Alexander Henderſon and other miniſters, that the women ſhould begin the tumult. *Guth. Memoirs*, p. 20, *& ſeq.*

† The populace were wittily compared to Balaam's aſs, whoſe mouth the Lord had opened. *Smollett's Complete Hiſt.* vol. VII. p. 148.

the

Anno 1637. the metropolis to petition againſt the ſervice-book, and now the men of rank and property avowed their diſcontent. Mr. Alexander Henderſon and Mr. James Bruce, two miniſters who had been charged to read the liturgy under pain of horning, ſupplicated the council for a ſuſpenſion of their charge, pleading, that in matters of God's worſhip they were not bound to a blind obedience; and that the reformation of religion was, by the independent conſtitution of the church of Scotland, left to the care of general aſſemblies. The council, to the great mortification of the biſhops, diſmiſſed the miniſters without any marks of diſpleaſure, and moreover promiſed to refer their petition to the King. In vain did the council iſſue out proclamations to diſperſe the multitude: They beſet the council-houſe, and threatened to kill all within, unleſs they engaged to join in oppoſition to the ſervice-book, and to reſtore to their pulpits three ſilenced miniſters, Ramſay, Rollock, and Henderſon.

Theſe tumults were ſucceeded by an orderly deputation of commiſſioners, to preſent two petitions to the council againſt the ſervice-book and book of canons; one from the men, women, children, and ſervants in Edinburgh, and the other in the name of the noblemen, gentry, miniſters, and burgeſſes. Charles was little inclined to give ſatisfactory anſwers to the petitioners, the moſt forward of whom he was determined to puniſh ſeverely. He commanded the privy-council to put out a proclamation, avowing a deteſtation of Popery and ſuperſtition, and that nothing ſhould be allowed within his dominions but what tended to the advancement of true religion, as at preſent profeſſed; nor was any thing intended againſt the laudable laws of

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that kingdom. This was little calculated to appeaſe the growing diſcontent, ſince "religion at preſent profeſſed" contained the hierarchy; and every body knew the King underſtood that the laws of the kingdom gave him a power to impoſe on his ſubjects what alteration in the forms of religion he pleaſed. The earl of Traquaire went to London to lay the ſtate of affairs fully before the King, and to endeavor to make him deſiſt from his attempt. Anno 1637.

In every circumſtance of this national diſcontent, ſymptoms had appeared which threatened a dangerous inſurrection; yet was the King inflexible; no arguments could prevail on him to give his people aſſurances that they ſhould not be preſſed to conform to any farther innovations in matters of religion. All he could be brought to was, to iſſue a proclamation, in which he pardoned all paſt offences; but forbad them to aſſemble again on pain of high-treaſon; and that no perſon ſhould preſume to approach Stirling, whither the council was removed, without permiſſion. He commanded all noblemen, gentlemen, and others, not belonging to the council or court of juſtice, to quit that town in ſix hours, otherwiſe they ſhould be declared traitors. The day after publiſhing this proclamation at Stirling, the earls of Home and Lindſey read a proteſtation, in the name of the people, againſt it; This was afterwards repeated at Lithgow and Edinburgh. From this criſis the oppoſition carried a very formidable appearance. The mutineers became ſo enraged, that they talked of putting the chancellor (Spotſwood) to death, a fate which had attended Hamilton, one of his predeceſſors in the archiepiſcopal ſee of St. Andrew's. Spotſ- Anno 1638.

Anno 1638. wood was ſuſpected of Popery *, and was deteſted on account of the officious part he had acted in the proſecution of the earl of Balmerino.

The multitude were diverted from an attempt on his life by their leaders; and an excellent order ſucceeded, the party forming themſelves into four tables: One conſiſted of nobility, another of gentry, a third of burgeſſes, and a fourth of miniſters. The table of gentry was divided into ſubordinate ones, according to their ſeveral counties. Each table conſulted on matters to be propoſed to a general table, compoſed of commiſſioners choſen from the other four. Orders were iſſued out from this, which were every where obeyed with the utmoſt punctuality. A ſolemn league and covenant was the firſt act which this admirable ſyſtem produced: It was ſworn to with the utmoſt alacrity by the whole party; and conſiſted, firſt, of a renunciation of Popery, formerly ſigned by James in his youth; to this was annexed a bond of union, by which the ſubſcribers obliged themſelves to reſiſt innovations in religion, and to defend each other againſt all oppoſition. Zeal was expreſſed for the King's perſon and government; but this was conditional, it being always joined with the maintenance of the true religion of the church of Scotland. There could not, therefore, be a more politic machine invented to unite people of every kind of diſpoſition; all ranks, all ages, and ſexes, flocked to ſubſcribe; the King's miniſters and counſellors followed the example; and none but the confirmed tools of the court, or men infected with Popery, withdrew themſelves from what was eſteemed ſo ſalutary, and ſo pious a combination.

* He had been formerly proſecuted for having been openly at maſs in France. *Oldmixon*, p. 117.

Scotland

Scotland now grew too hot for the prelates. The hated biſhop of Galloway had been purſued with execrations, and obliged to take ſhelter in the council-room. The archbiſhop of St. Andrew's had a very narrow eſcape at Stirling. They fled in a body to London, from the fury of the covenanters; and Charles, who looked upon no ſin equal to that of diſobedience to monarchs, was ſurpriſed at the increaſe of power and influence which the party in oppoſition had gained. He began to apprehend the conſequences; and ſent the marquis of Hamilton as his commiſſioner to treat with the covenanters: The covenant was required to be renounced; and he thought he made very conſiderable conceſſions, when he offered to ſuſpend the canons and liturgy till, in a fair and legal way, they could be received; and ſo to model the High-commiſſion that it ſhould no longer be a juſt grievance. Anno 1638.

It is a queſtion whether ſuch general declarations would ever have given content; but in the preſent circumſtances they were treated with the utmoſt contempt. Hamilton, in an anſwer to the King's demands, was told, that they would ſooner renounce their baptiſm than the covenant; and he was invited by the miniſters to ſubſcribe it. They had taken care that the commiſſioner ſhould not be in a ſituation to give himſelf airs of authority, for his vaſſals were forbid to attend him during his ſtay in Scotland; and having been invited to reſide at Holyrood-houſe, the chief covenanters met him with ſixty thouſand followers in their train *. He was told by the earl of

* The covenanters ſent Hamilton a prohibition againſt reading the ſervice-book in the King's chapel. *A Short View of the Troubles of England, by Sir William Dugdale*, fol. ed. 1681, p. 47.

Anno 1638. Lindſey, that the people inſiſted on having the articles of Perth annulled, epiſcopal authority aboliſhed, and that if a free general aſſembly and parliament were not called by the King, they would call one themſelves. In the mean time they had not been idle: Two large ſhips came laden into their ports with arms and ammunition; by a decree of the tables, the keys of the city were taken from the magiſtrates of Edinburgh; a guard of fifteen hundred men ſet upon its avenues, and another ſtrong guard prevented the reinforcing the caſtle. When Hamilton talked over the ſtate of affairs with the council, he found that if he proceeded to any meaſures which were diſagreeable, he would not only be affronted in the exerciſe of his authority, but be deſerted by the majority of the council: He endeavored to prevail on the eminent lawyers and judges of the ſeſſion to declare the covenant unlawful; but they excuſed themſelves, on pretence that they feared the reſentment of the people.

In this ſituation he found himſelf obliged to ſuppreſs, in a declaration he had brought down with him, that part which required the ſubjects to renounce the covenant. As this declaration ſtill ran on the general expreſſions of the King's averſion to Popery, and his ſteadineſs in the true religion, promiſing nothing more than what had been already tendered, it was met by a very ſenſible proteſtation, which avowed, that they never doubted his majeſty's orthodoxy, and therefore deſired to inform him how far the innovations, which the enemies of their religion attempted to introduce, were full of Popiſh errors; and farther complained, that his majeſty's proclamation took no notice of their ſupplications and juſt griev-

grievances, but under the name of the great increaſe of diſorders, faults, and miſdemeanors *. Anno 1638.

Hamilton's next care was to get an act ſigned by the council, approving the King's declaration, with an opinion that the people ought to reſt ſatisfied with it. This was obtained craftily, in the abſence of members who had publicly avowed their diſapprobation; but the next day, many of thoſe who had been prevailed with to ſign told him, that upon ſecond thoughts they found they had wronged their conſciences; therefore deſired he would call a new council, that they might retract what had been too haſtily determined. In vain were Hamilton's endeavors to divert this humor: He was told, that another way would be found to make the retractation known; and was at length obliged, the act not having been yet regiſtered, to tear it. According to the King's direction, the party was gratified with the bringing back the ſeſſion to Edinburgh; and the commiſſioner returned to court, leaving the covenanters in hopes he would be back again in three weeks or a month, with a favorable anſwer to their demands. He moreover made them a kind of pro-

* This declaration, which gave ſo little content to the covenanters, was but a copy of Charles's countenance, till his military preparations, which he was at this time providing with great ſecrecy, were complete. He writes word to Hamilton, that he is content that he forbears inſiſting on the covenant being given up till he hears his fleet is ready to ſet ſail for Scotland; that he gave him leave to flatter the party with what hopes he pleaſed, provided that he did not conſent to the calling a parliament or general aſſembly till the covenant was given up; that though the ruin of his people for ſome time would be a loſs to him, yet when he conſidered that his crown and reputation were at ſtake, he had rather ſuffer the firſt, which time would help, than the laſt; and that he would ſooner die than yield to their impertinent and damnable demands. *Burnet's Memoirs of the Duke of Hamilton*, p. 55, *& ſeq.*

Anno 1638. miſe of ſummoning, at his return, a general aſſembly; but with the following reſtrictions: That no laicks ſhould have voices in chuſing the miniſters to be ſent from the ſeveral preſbyteries to the general aſſembly, nor any but the miniſters of the ſame preſbyteries; that the aſſembly ſhould not go about to determine of things eſtabliſhed by act, or otherwiſe than by remonſtrance or petition to the parliament. The tables rejected theſe conditions; and in the abſence of the commiſſioner reſolved, that a general aſſembly ſhould be held on the twenty-ſecond of September.

Hamilton repreſented to the King, in its full light, the ſituation of his affairs in Scotland, the ſtrength and firmneſs of the covenanters; he convinced him, that he was deceived in the imagined forwardneſs of his military preparations, and that it was neceſſary to keep on the maſk of condeſcenſion till he had collected a ſufficient force to give the law to his Northern ſubjects. Hamilton's council was followed; he was again ſent down, with farther conceſſions: the diſcharge of the ſervice-book, the book of canons, and the High-commiſſion. Moreover, to break that perfect union which the covenant had effected in Scotland, and to remove the ill opinion the Scots had adopted concerning the religious ſentiments of their King, it was propoſed, that the confeſſion of faith eſtabliſhed at the Reformation ſhould be renewed, with a general bond preſcribed by the King *. This expreſſed to the ſovereign an

* This was a very mean hypocriſy in Charles; ſince this confeſſion of faith which he ſigned was not only a violent renunciation of the material part of Popery, but of the Arminian tenets, the conſecration of churches, and many other particulars which Laud had, by his approbation, introduced into the church of England.

abſolute

abſolute duty, without any conditions of good government, or the weal of the church and ſtate. Anno 1638.

It was not without reaſon the miniſters from the pulpits had warned the people to beware of truſting to appearances, and falling into the ſnare of the enemy; they declaimed violently againſt the new covenant, which after it had been ſigned by the council *, with an order for a general ſubſcription, was followed by a proclamation for ſummoning a general aſſembly at Glaſgow the twenty-firſt of November, and a parliament at Edinburgh the fifteenth of May the year following; the ſervice-book and canons having been previouſly diſcharged. The covenanters were ſo far from avowing themſelves ſatisfied with theſe ſeeming conceſſions, that they erected a ſcaffold under the Croſs at Edinburgh, and mounting it with their ſwords in their hands, proteſted againſt the new covenant, as a machine of ſtate, invented to deſtroy the efficacy of the old one, to entrap them into a ſelf-condemnation, as if their own ſubſcription, not urged by authority, was unlawful, and thus ſtigmatiſe the like laudable courſes in the like neceſſity to be taken by poſterity †. They affirmed, that the ſubſcription and oath attempted to be impoſed on them might conſiſt with all the corruptions which had lately crept into the church. They cavilled at the nature of the King's proclamation, which only diſpenſed with

* It was with great difficulty Hamilton prevailed on the council to ſign the King's covenant. *Memoirs of the D. of Hamilton*, p. 180.

† In the King's declaration, before the confeſſion and bond which was now required to be ſubſcribed, it was aſſerted, that that which had been previouſly taken muſt be null and void in itſelf, becauſe not taken by royal leave and authority. *Memoirs of the Duke of Hamilton*, p. 67, *&c ſeq.*

Anno 1638. the practice of the articles of Perth, but yet declared an intention that thoſe acts of the general aſſembly and parliament which ordained them, ſhould ſtand. They objected likewiſe to the directions concerning the oath to be given to miniſters at their entry, it ſuppoſing that the office of biſhops was unqueſtionable; but above all, his majeſty's declaring that he would admit no innovation therein; his ſummoning all prelates to be preſent at the enſuing parliament and national ſynod; his warning all archbiſhops and biſhops to be preſent, as having place and voice in that aſſembly, contrary to the caveats, acts of the church, and the declinator, which had been offered againſt them. They complained that the King, by reſtrictions, additions, and ambiguous clauſes, rendered of no effect all his conceſſions, reſerving to himſelf a liberty to maintain, at a more convenient ſeaſon, all thoſe novelties he ſeemed to depart from.

Before the innovations made in the laſt reign, it had been uſual for each preſbytery to ſend to the aſſembly, beſides two or three miniſters, one lay-commiſſioner; the boroughs and univerſities ſent likewiſe commiſſioners. James, who dreaded ſuch an alloy to the corruption he had found among eccleſiaſtics, aboliſhed this inſtitution. It was now revived by the covenanters; and as the ſucceſs of their cauſe depended on the integrity of the commiſſioners, by an edict of the Tables it was ordained, that a lay-elder from each pariſh ſhould attend the preſbytery, and give his vote in the choice of commiſſioners. Every commiſſioner was allotted four or five lay-aſſeſſors, who had leave to interpoſe with their advice on the matters to be agitated in the aſſembly.

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The mal-contents having thus taken every ne- Anno 1638.
ceſſary ſtep to render the tranſactions of this meeting agreeable to their views, on the appointed twenty-firſt of November the aſſembly met at Glaſgow; and as James, by his corrupt management, had taken care to get every thing paſſed which he deſired, ſo the Tables now turned the tide upon the crown, and took certain means to get all thoſe pernicious tranſactions annulled. Hamilton had giving Sir Thomas Hope, the King's advocate, orders to follow him to Glaſgow, and prepare himſelf to defend epiſcopacy, and prove it to be according to the laws of Scotland. This man, who, though a ſervant of the crown, was honeſt, and loved the Liberties of his country, anſwered, That it was againſt his conſcience ſo to do; that he judged epiſcopacy to be contrary to the word of God, and to the laws of the church and kingdom. The lord Lorn, whoſe father, the earl of Argyll, a Roman-Catholic, being lately dead, was now at full liberty to declare his principles, avowed the cauſe of the mal-contents, and aſſiſted in the buſineſs of the aſſembly. Argyll's * example was followed by lord Areſkyn, eldeſt ſon to the earl of Marr, and three more of leſs note, who deſired to be admitted to receive the covenant.

The fate of the biſhops was the firſt thing the aſſembly decided: a charge was brought, accuſing them of perjury, in the not obſerving the cautions of the Montroſe aſſembly, to which they had ſolemnly ſworn; and likewiſe of hereſy, ſimony †, bribery, cheating, fornication, adul-

* He came to the aſſembly in quality of aſſeſſor to the commiſſioner. *Guthrie's Memoirs*, p. 40.

† General complaints had been made of ſimoniacal pactions with the biſhops' ſervants; in which practice, as they had

Anno 1638. tery, inceſt, ſwearing, drunkenneſs, gaming, and breach of the ſabbath. The biſhops declined * the authority of the aſſembly, and the commiſſioner, who had orders from the King merely to ſuffer the aſſembly to meet as a literal performance of his promiſe, proteſted againſt it, as illegally conſtituted, and in the King's name diſſolved it †. This meaſure gave no diſturbance to the matters in hand; the court continued to ſit, and to finiſh their buſineſs, firſt entering a proteſtation, in which they proved, by the records of the general aſſemblies, and in particu-

had never been reſtrained by their maſters, the crime was imputed to them. As for the other offences, it was alleged, that they had all been committed by ſome one or other of the body, and therefore it might juſtly be put into a general charge, in which it was impoſſible to ſtate the particular crimes of each individual. Though the offences in point of morality which were charged againſt theſe biſhops are doubtleſs much aggravated, yet it is acknowledged by all impartial hiſtorians, that the lives of the prelates were not ſo pure as were, in theſe times, thoſe of the generality of the miniſters.

* In the biſhops' declinator, they diſclaimed the holding their calling from commiſſion by the act of the Montroſe aſſembly, but by his majeſty's conſent and approbation; that they acknowledged him only *Deo minorem*, next unto God in all cauſes, ſupreme governor over all perſons ſpiritual and temporal; that it was abſurd and contrary to the practice of all Chriſtian churches, that archbiſhops and biſhops ſhould be judged by preſbyters; that the act of parliament abrogating in eccleſiaſtical cauſes, did not infer the abrogation of that authority which they received, not from the parliament, but from Chriſt, who entruſted to them the ſpiritual overſight of the clergy under their charge, whereto belongeth the preſidentſhip of all aſſemblies for matters ſpiritual, always with due ſubmiſſion to the ſupreme governor. *Nalſon*, vol. I. p. 109. *& ſeq.*

† The King having appointed ſix privy-counſellors to be aſſeſſors to his commiſſioner, the aſſembly abſolutely refuſed to admit of their ſuffrages. At the ſame time they declared, that if the King himſelf was preſent, he ſhould have but one voice, and that no negative one. *Echard*, p. 469.

lar by the example of one held in the year 1582, a right of ſitting notwithſtanding any command to the contrary. Anno 1638.

They then proceeded to annul the acts of every aſſembly ſince the year 1605; the ſervice-book, the book of canons, the book of ordination, the High-commiſſion court, and the articles of Perth, were condemned, epiſcopacy aboliſhed, and the biſhops all depoſed and excommunicated, except four, who never having approved of the conduct of their brethren, acknowledged the authority of the aſſembly, and ſubmitted to return to the rank and calling of ordinary preſbyters. The book of canons had been pretended by the King to be no other than an abſtract of the acts of all the national ſynods; it was for this reaſon the real acts were with great care collected by the covenanters, and produced in this aſſembly. Before the ſynod broke up, they ordained annual meetings, and appointed one to meet at Edinburgh on the firſt of July 1639. Baker's Chronicle, p. 465.

When the lords of the council ſigned the King's covenant, they made an act, declaring, that they ſubſcribed the confeſſion of faith according to the tenor and date of that of the ſecond of March 1580. This was not agreeable to Charles's views, who intended by the word "preſent" all thoſe novelties in religion which had been introduced by himſelf and his father. The covenanters not having been able to prevent the confeſſion of faith, with the obligatory clauſe annexed to it by the King, from being ſigned by many people, laid hold on the explanation which had been made by the privy council, and declared the preſent covenant to be the ſame with that which had been allowed in the year 1580 by king James, and that epiſcopacy was by the former abjured.

Anno 1638. abjured. This was proteſted againſt by Hamilton in the King's name, alledging, "That all oaths muſt be taken according to the intention of that authority which exacteth the oath; and that it was never by his majeſty intended, that epiſcopal government ſhould be abjured, or any thing elſe which was eſtabliſhed by acts of parliament or acts of the church now in force, and which were ſo at the time of the taking the oath." This was followed by a proclamation, forbidding, in very high terms, the ſubjects to pay any obedience to the dictates of the Glaſgow-aſſembly, and the preſbyteries, ſeſſions of the kirk, and miniſters, to preſume privately or publicly to authoriſe, approve, juſtify, or allow, the ſaid unlawful meeting.

It has been alleged by many authors, that Charles's conceſſions were ſuch as ought to have ſatisfied the Scots, though that is a point which cannot be granted by any rule of good policy; yet certain it is, that the Scots knew thoſe conceſſions were not ſincere; that he only waited the opportunity to retract them; that he had been all the time ſecretly making warlike preparations to put himſelf in a condition to puniſh the heads of the covenanters, and to ſecure himſelf from any oppoſition to his farther deſigns on their country. The earl of Argyll was a man of good ſenſe, and being well acquainted with the King's real ſentiments, knew the future liberty of Scotland depended on the vigorous and determined conduct of the covenanters; that if the party was divided, they muſt from henceforth take the law from Charles and his cabal. It was for this reaſon he fell entirely in with the malcontents, and was the foremoſt in all the ſpi-

rited meaſures which were taken againſt the crown *. Anno 1638.

* The buſy officious Wentworth wrote Argyll ſeveral letters of advice concerning his conduct, with many abuſive animadverſions on the carriage of the Scots, and on thoſe points of diſcipline on which they ſo rigidly inſiſted. Theſe were anſwered by the earl with great temper and prudence, giving Wentworth, at the ſame time, a check for his meddling with the conſtitution of a church and ſtate of which he was not a member, and in which he had no concern. In the firſt of Wentworth's letters he tells Argyll, that "It is his intereſt, as a nobleman, to be active in upholding the prerogatives and full dominion of the crown."

Nothing can be a ſtronger picture of the man, nor of thoſe mean principles which actuated him, than this ſentiment; his whole ambition was now centered in being the ſatellite of a tyrant; but the wiſer Argyll could not be affected by this weak argument; his juſter politics concluded, that the greater the property and the privileges of a ſubject were, the more it behoved him to keep the power of the crown in its due bounds; ſince when the prerogative of an individual is unlimited, nobles, like the meaneſt-conditioned plebeian, are liable to be inſulted and trampled on, not only by the tyrant, but by his minions: the deputy's behavior in Ireland to many men of rank and property, was a recent example of this kind. Wentworth is very high in his anſwer to Argyll's rebuke: "His majeſty, writes he, hath by his royal proclamation declared to the whole world his own moſt excellent judgment of the fact. For my part, I ſo deeply reverence my maſter's approved wiſdom, that I ſhould condemn it in myſelf as a high preſumption, to diſcourſe any farther a queſtion reſolved by royal ſentence and authority. Thus we have been taught, and thus we practiſe; ſo as for the time to come I ſhall perfectly obey, as you are pleaſed to wiſh I ſhould, to wit, meddle little; yea in truth, not at all, with a point thus cleared; ſo as neither the diſobedience, nor yet the thought of it, by the grace of God, ſhall ever enter farther into my heart, but, quieted in myſelf, entirely and attentively execute as his majeſty ſhall ordain for me. Finally, my prayer and truſt is, that God ſhall of his grace give us a right underſtanding to pay thoſe duties to thoſe Gods on earth he hath commanded; and were there no law, yet might his majeſty's own perſonal piety perſuade us all thereunto." Theſe letters, with Argyll's anſwers, were all ſent by Wentworth to the King. *Straffard's Letters*, vol. II. p. 210. 246. 290. 299.

The

Anno 1638. Both Charles and the Scots prepare for war.

The tranſactions of the Glaſgow-aſſembly cauſed both ſides to pull off the maſk, and openly prepare to defend by arms their ſeveral pretenſions. The beginning of the year 1639 was ſpent in vigorous preparations againſt the Scots. Charles ſummoned all the Engliſh nobility to meet him at York on the firſt of April following. In this he affected the ancient manner; but in this, as in all other acts of adminiſtration, he was very defective in point of law: for the poſſeſſors of certain crown-lands lying in Nothern counties were the only people obliged to furniſh troops for the Northern borders. This was not the only unpopular method taken to ſupport the deſtined war: the Papiſts ſhewed great zeal againſt the covenanters; and the queen, deſirous of ingratiating her party of recuſants yet more into her huſband's favor, wrote circular letters to the whole body, requiring them to contribute largely towards the King's neceſſities. Her chief agent was Sir Kenelm Digby, whoſe father had been executed for the Popiſh plot. A kind of emulation appeared between the Papiſts and the Engliſh clergy, who had been ſtimulated by Laud, to out-do each other in contributions towards the war againſt the Scots*. This circumſtance helped to cool the zeal of the reſt of the Engliſh ſubjects, who called it "the biſhops' war," and in ridicule termed Charles "the archbiſhop of Canterbury's knight."

Anno 1639.

Rapin, vol. X. p. 367.

On the fame of theſe proceedings in England, the Scots ſeized on the caſtles of Edinburgh and

* The civilians alſo contributed their ſhare. Laud had procured ſome privileges from the King in behalf of this body: That half of the maſters in Chancery ſhould be always civil lawyers, and that they ſhould ſerve as maſters of Requeſt.

Dum-

Dumbarton, and on the arms and amunition they found in the King's magazines; they made levies, formed an army, and appointed Alexander Leſley their general, an experienced officer, who had ſerved with great reputation under the king of Sweden. The care of the coaſt adjacent to Ireland was committed to the earl of Argyll *; and Aberdeen, the univerſity of which had declared for the King, to the earl of Montroſe. They fortified Leith, the ſea-port of Edinburgh: as this was a place of great conſequence, the works were carried on with rapidity; not only the inferior ſort, and thoſe who aſſiſted for pay, performed the drudgery of manual labor, but nobles, gentry, women of all ranks, laid aſide the effeminancy of their manners, and, emulating Grecian virtue, intermingled with the low herd, and carried on their ſhoulders the materials requiſite for completing the fortifications. The covenant was ſworn to by almoſt all the Scots in foreign parts; and the officers who had acquired reputation in the German war repaired home to aſſiſt their country in her preſent neceſſity. Anno 1639.

The moſt active agent againſt this brave and determined people was the deputy of Ireland, a Conduct of the deputy of Ireland.

* The earl of Antrim, a weak bragging man, who had married the ducheſs-dowager of Buckingham, pretended a title to part of the earl of Argyll's eſtate. Charles had the imprudence, before this nobleman had declared himſelf, to promiſe Antrim aſſiſtance in a ſcheme of invading Argyll's territories in Scotland. This ſerved no other purpoſe than to give Argyll the alarm, and furniſh him with a vindication, if he had wanted one, for the part he acted; ſince Antrim, though a grandſon of Tyrone, and one of the heads of the Popiſh party in Ireland, was, from the poverty of his circumſtances, and the weakneſs of his abilities, unable to fulfil any part of his engagements. *Strafford's Letters*, vol. II. p. 325.

man

Anno 1639. man who had entirely devoted himſelf to the worſt deſigns of the court, and had ran lengths which no Engliſh ſubject had ever yet done without paying the forfeit of his life. He was, from theſe circumſtances as much perſonally engaged in the quarrel as Charles himſelf. Not only the maintaining that ſtation in the government, to the precarious enjoyment of which he had ſacrificed his honor, the liberties of his country, and the liberties of his poſterity, but even the ſecurity of his life, depended on the power of his maſter. He was ſo great a dupe to his own vicious affections, and had ſo little knowledge of the diſpoſition of the Engliſh people towards the government, and their real ſentiments on the important occaſion of the intended war with Scotland, that he fancied the jealouſy which had hitherto exiſted between the two nations, and which had flamed out violently on the partiality James had ſhewn to ſome of his Scotch ſubjects, would have made the Engliſh, notwithſtanding the inſults and provocations they had received from the Stewart family, notwithſtanding the ſubjected ſtate of their once-free conſtitution and the deprivation of all their privileges and immunities, aſſiſt their King in his pretenſions on Scotland; and for the ſake of diſtreſſing a people who had never done them any injury, exalt their real enemies, fix the yoke on their own necks, and become equal ſlaves with the people they aſſiſted to conquer. Deceived by theſe idle notions, he gave the King the moſt violent counſel, indeed ſuch as his circumſtances would not permit him to practice; viz. the anſwering the demands of the covenanters with a true monarchical imperiouſneſs—attaching the perſons of the preſbyters, and holding them in cloſe impriſonment; but

Strafford's Letters, vol. II. p. 191, & ſeq.

above

above all, not to ſubmit to any eſſential conceſſions: "For ſhould, argued he, theſe rude ſpirits carry it thus from the King's honor to their own churliſh will, it would have a moſt fearful operation upon England; therefore God Almighty guide his majeſty's counſels and ſtrengthen his courage, for if he maſter not them, and this affair ſo much tending to the tranquility of his kingdoms, to the honor of Almighty God, I ſhall be to ſeek for any probable judgment what is next like to befal us." Anno 1639. Id. p. 250.

Whilſt Wentworth thus adviſed the King to maintain to the utmoſt his aſſumed prerogatives, he was not wanting in his efforts to ſecond theſe pretenſions with a competent force. By means of the ſtanding army, he had made himſelf abſolute maſter over Ireland, and had drawn down a body of men towards the ſea-coaſt oppoſite to Scotland, which prevented a junction between the covenanters in that country and the Scotch Preſbyterians ſettled in Ireland. By the terrors of the ſame army, he impoſed an arbitrary oath on that people; viz. "That they would maintain the King's power and authority, never take arms againſt it, nor proteſt againſt any of the royal commands, but ſubmit themſelves with all due obedience; that they would not enter into any covenant, oath, or bond, without his majeſty's ſovereign and regal authority; and that they renounced and abjured all covenants, oaths, and bonds whatſoever, contrary to what they had in that oath ſworn, promiſed, and profeſſed." Arbitrary oaths impoſed in Ireland and England. Id. p. 354.

The King approved highly of this act of power, and impoſed the ſame oath on the Scots reſiding in England: he found them a more refractory body, for many ſubmitted to impriſonment ra-

Anno 1639. ther than comply with ſo illegal an injunction. Not only thoſe who did not conform to the worſhip which had been newly eſtabliſhed in Ireland were impriſoned, but the churchwardens were perſecuted for not impeaching their fellow-pariſhioners *. A well appointed regiment of five hundred men was ſent from that country to garriſon the town of Carliſle. He had provided three hundred men for the relief of the caſtle of Dumbarton, furniſhed the magazines with arms and ammunition for eleven thouſand men, and by the vaſt increaſe of the King's revenue was enabled to tranſmit thirty thouſand pounds in money, with large quantities of pro-
Id. p. 298. viſions for victualling the frontier-towns. Beſides this, a thouſand troops were raiſed in Ireland, and tranſported over to join the King's troops in the North. The lord-lieutenants of the ſeveral counties received orders for levying foot; the trained bands were muſtered; and the officers who had gained experience in foreign ſervice were ordered home. By theſe methods an army was raiſed, conſiſting of ſix thouſand horſe and twenty thouſand foot, beſides a ſquadron of ſhips with five thouſand men on board, under the command of the marquis of Hamilton, who was to land in the Frith of Edinburgh, and endeavor to join the marquis of Huntley, a noted Papiſt,

* Archibald Adair, a Scotchman, biſhop of Killala, for having refuſed to perſer one Corbet a Scotch parſon, who had written a libel againſt his countrymen the covenanters, and for having dropped ſome ſentiments in favor of that party, was by Wentworth's directions brought by a purſuivant before the High-commiſſion court at Dublin, and ſentenced to be fined, impriſoned, and deprived. He was ſucceeded by John Maxwell, one of the moſt hot-headed of the Scotch biſhops. *Carte's Life of Ormond*, vol. I. p. 93, *& ſeq.*

and

and a great partiſan of the the royal cauſe, to whom with other noblemen, commiſſions had been ſent, empowering them to raiſe men for the King; whilſt the fleet, under the command of the earl of Northumberland, was to ſtop the trade of the Scots, and make a diverſion for guarding the coaſt. The earl of Arundel, a man thought to be very inveterate againſt the Scots, and ſuſpected of Popery, was for theſe reaſons, notwithſtanding his total ignorance of military affairs, appointed general of the army. The generalſhip of the horſe was taken from the earl of Eſſex, to his great diſcontent, and, through the intereſt of the queen, given to the earl of Holland. Eſſex was made lieutenant-general of the army *. Notwithſtanding the neceſſary preparations which had been made by the covenanters to defend their Liberty, yet they ſtill kept up appearances, and ſent a letter to the King with an account of the tranſactions of the aſſembly, accompanying it with a petition written in very ſubmiſſive terms, nevertheleſs Anno 1639.

* Notwithſtanding the enormous ſums of money which the King had by various means extorted from his people, yet ſuch was his diſſipation, that he had at this time no proviſion of money to ſupport a war: This appears by the following paſſage in a letter of the earl of Northumberland to the deputy of Ireland. "The martial preparations here have made a great noiſe; but I aſſure your lordſhip, we are in as ill a poſture to invade others as we were a twelvemonth ſince. The diſcontents at home do rather increaſe than leſſen. The King's coffers were never emptier than they are at this time; and to us who have the honor to be near about him, no way is yet known how he will find means either to maintain or begin a war, without the help of his people." Northumberland, in a letter to his brother-in-law the earl of Leiceſter, ſays, that ſuch was the poverty of the court, that no ſervant of the King, of what condition ſoever, could get either wages or penſion paid. *Strafford's Letters*, vol. II. p. 267. *Sydney's State Papers*, vol. II. p. 636.

Anno 1639. juſtifying their proceedings; the legality of which, they ſaid, would appear in the enſuing parliament. At the ſame time they complained, that their enemies, with an intention to ruin them, had ſpread reports that they deſigned to invade England.

The King publiſhed two declarations, containing a full narrative of the riſe and progreſs of the tumults in the North; but as they contained high encomiums of the diſcipline introduced into the church of England, with ſevere cenſures on the deformity of the Scotch worſhip, aſſertions againſt the covenanters, with a juſtification of the royal conduct, but without bringing any proof that it was conformable to the laws of Scotland, they could only convince thoſe who, like Charles, were bigoted to Laud's new model of church diſcipline, and who believed, with their prince, that infallibility was attached to ſovereignty. At the end of the declaration *, the King endeavors to convince his Engliſh ſubjects, that the intentions of the covenanters are, under the ſpecious pretext of redreſſing religious grievances, to invade England, and enrich themſelves with the ſpoils of the inhabitants of South-Britain.

The Scots, on their ſide, diſperſed in England a great number of papers, in which they ſet forth

* One of the paragraphs in what is called the leſſer declaration is ſo true a picture of Charles's ſentiments concerning the ſacredneſs of his office, that it is worth inſerting. "They have treacherouſly, ſaid he, induced many of our people to ſwear to a bond againſt us; which bond and covenant, or rather conſpiracy of theirs, could not be with God, becauſe againſt us, the Lord's anointed over them. But it was and is a bond and covenant pretended to be with God, that they may with the better countenance do the works of the Devil, ſuch as all treaſons and rebellions are."

forth their grievances, and the King's intentions; Anno 1639.
disavowed having any purpose to moleſt the Engliſh, and intimated, that it concerned them, no leſs than themſelves, to withſtand the arbitrary power which Charles was graſping at in England as well as in Scotland. On the twenty-ſeventh of March, the King ſet out to join his troops at York, in which place he revoked ſundry monopolies licences, and commiſſions, granted by his letters-patent*. This was intended as a popular

* This act, intended to conciliate the minds of the exaſperated people, was a very injudicious piece of politics, as it gave the public a taſte of the advantages they received from the diſtreſſed ſituation of their King, and convinced them of the utility of keeping him in a ſtate of dependance on their good will; ſince it was only on occaſions when he wanted the aſſiſtance of his ſubjects to maintain his power, that he could be brought to do them juſtice. The following are ſome of the monopolies and commiſſions which were called in, noted here becauſe they have not been yet mentioned in this Hiſtory. A commiſſion touching ſcriveners and brokers. A commiſſion for compounding with offenders touching tobacco. A commiſſion for compounding with offenders for tranſporting butter. A commiſſion for compounding with offenders in the importing and uſing logwood. A commiſſion to compound with ſheriffs, and ſuch as have been ſheriffs, for ſelling their under-ſheriffs places. A commiſſion for compounding for deſtruction of woods in iron-works. A commiſſion for concealments and encroachments within twenty miles of London. A licence to tranſport ſheep-ſkins and lamb-ſkins. A commiſſion to take men bound to dreſs no veniſon, pheaſants, or partridges, in inns, alehouſes, &c. A commiſſion toching the uſe of wine-caſks. A commiſſion for licenſing brewers. A licence for the ſole tranſporting lamperns. A grant for weighing hay and ſtraw in London and Weſtminſter, and three miles compaſs. An office of regiſter to the commiſſion for bankrupts in divers counties of the realm. An office or grant for gauging red-herrings. An office or grant for ſealing bone-lace. A grant of privilege touching kelp and ſea-weed. An office or grant of factory for Scottiſh merchants. An office or grant for the ſearching and ſealing foreign hops. An office or grant for the ſealing buttons. All grants of fines, penalties, and forfeitures, before

Anno 1639. act, but it was followed by another which was quite the reverſe; the impoſing on all the chief officers in the army, and the nobles aſſembled in the camp, by way of teſt, an oath profeſſing loyalty and obedience to the King, and diſclaiming and renouncing the having any intelligence, or holding any correſpondence with the rebels. This oath was taken by all the Scots and others in the King's train, excepting the lord Say and the lord Brook, who had the ſpirit to refuſe it, as an unconſtitutional exaction: On this refuſal they were confined to their houſes*.

The Scots ſent addreſſes to the King at York, in which they deſired to be admitted to his preſence, and lay their grievances at his feet. They obeyed a proclamation publiſhed in Scotland to forbid them to approach within ten miles of the borders of England; and by this judicious behavior, congruous to their profeſſions, they convinced the Engliſh that the quarrel was entirely the King's, and that they were called out, not to defend their own property, as the courtiers endeavored to make them believe, but to aſſiſt a wicked adminiſtration in the moſt unjuſtifiable deſigns, againſt a people to whom they were in a manner united by the parity of circumſtances, and ſimilarity of grievances. If Charles had already

judgment granted, mentioned to be granted, by letters-patent, privy-ſeals, ſignets, ſign-manual, or otherwiſe. The ſeveral grants of incorporation made unto hatband-makers, lute-ſtring-makers, ſpectacle-makers, comb-makers, tobacco-pipe-makers, butchers, and horners. *Ruſhworth*, vol. III. p. 915, & *ſeq.*

* The examples of the lord Say and the lord Brook occaſioned other lords, who had taken the oath, to make a proteſtation of what ſenſe they took it in. This proteſtation was ſo offenſive to the court, that the oath was not offered afterwards. *Strafford's Letters*, vol. II. p. 351.

claimed

claimed a ſuperiority over the laws of England, how fatally might he make thoſe pretenſions good when he had reduced Scotland to a conquered province, when he could pour forth armies of diſcipline ſlaves to feed on the paſtures of thoſe who ſhould venture to oppoſe him in the reſt of his dominions? It was in this view, and in theſe circumſtances only, that the Scots were to be dreaded by their Southern neighbors. On the contrary, whilſt they maintained a free and independent ſpirit, their generous example and aſſiſtance might encourage England to purſue the glorious track, and recover, by the way of arms, her loſt Laws and Liberties. Thus argued the chief officers in the Engliſh army. Anno 1639.

Charles, who was ſanguine in all things which concerned his authority, imagined the Scots obeyed him through fear, and detached the earl of Holland, with three thouſand foot and one thouſand horſe, to march into Scotland by the way of Kelſo; the earl of Eſſex had been ſent before to take poſſeſſion of Berwick. Leſley advanced, at the head of four or five thouſand men, to meet Holland: Favored by his ſituation, he drew up his forces in a manner which made them appear double their real number, and Holland received intelligence that there were yet twenty-four thouſand behind. On this he diſpatched orders to ſtop the march of his foot; and returning back, ſpread through the whole camp the alarm of the enemy's great force. On the retreat of Holland, the Scots, inſtead of advancing, modeſtly drew back, and ſent letters to each of the Engliſh generals, aſſuring them, that they had not the leaſt thoughts of entering into a war againſt England, their only intent being to defend their Rights and Liberties till they might have acceſs to his ma-

The King's forces retreat before the Scots.

Anno 1639. jeſty to expoſe their complaints to him. Soon after this, the Scots ſent the earl of Dumfermling with a petition to the King, entreating him to appoint commiſſioners to negociate a peace. This was ſeconded by the voluntary advice of almoſt all the nobility who ſurrounded the camp; and Charles was in a manner obliged, contrary to thoſe ſchemes of conqueſt he had projected, to enter into treaty with the Scots, and countermand the orders he had ſent to Hamilton to do what miſchief he could to the rebels *. Hamilton has been much condemned by the violent royaliſts and prelatiſts for the moderate part he acted in the execution of his orders againſt the Scots. This nobleman, though Charles's minion, and fattened with the oppreſſions of the people †, had not yet arrived to the profligate ſelfiſhneſs of a Wentworth. He could not look without horror on the proſpect of his country conquered by Charles, and taking the law from a triumvirate ‡, with whoſe arbitrary principles he was thoroughly acquainted. Full of theſe apprehenſions, he was far from being in a hurry to perform the violent commands of his maſter, and always repreſented the ſtate of the covenanters in a very formidable light, but particularly when ſent down with a force, which, many authors are of opinion, might have brought the mal-contents to any terms of ſubmiſſion; it was from theſe re-

* He wrote to Hamilton, that he muſt now keep upon the defenſive, for he was clearly and fully ſatisfied in his own judgment that what paſſed in the gallery between them had been too much verified on this occaſion; *viz.* That the nobility and gentry of England would never incline to invade Scotland, and thereby begin an offenſive war. *Nalſon*, vol. I. p. 231.

† Many of the oppreſſive commiſſions, monopolies, and licences, had been granted to him.

‡ The King, Laud, and Wentworth.

pre-

preſentations that he received commands not to act on the offenſive, but to amuſe the covenanters with the proſpect of a treaty, till Scotland ſhould be invaded by the King's army *; and it was at the time when Holland had received orders to attack the Scots, that he was commanded to commence hoſtilities. He obeyed ſo punctually the king's directions to keep on the defenſive, that the commiſſion of lieutenancy he ſent to the zealous Huntley was ſo full of theſe cautions, that Huntley parleyed with the enemy, and was ſent priſoner to the caſtle of Edinburgh for refuſing to ſign the covenant. Anno 1639.

Beſides the compunctions which a man of any degree of virtue muſt have in Hamilton's affecting circumſtances, an intereſting occaſion excited his humane feelings. The covenanters, after the example of the Romans in the ſame exigencies, ſent Hamilton's mother to try her influence over her ſon: She was a pious woman, and a warm covenanter, and no doubt made uſe of thoſe ſtrong arguments the ſubject would admit, to make him forbear from any hoſtile attempts on his country. Whatever might be his reſolutions on entering the Frith, like Coriolanus he could not reſiſt the united ſolicitations of two parents, nor break through that double tie of filial duty with which he was bound both to his country and the fair negociator. In this ſituation of mind

* After Hamilton had entered the Frith, he received a proclamation from Charles, offering pardon to the rebels who ſhould lay down their arms, with orders to perſecute all with fire and ſword who ſhould refuſe. By Hamilton's repreſentations, theſe orders were countermanded, and directions given to keep on the defenſive till the King ſhould invade Scotland with his army. *Memoirs of the Duke of Hamilton*, p. 123.

Anno 1639. he received, no doubt with infinite pleaſure, Charles's orders to repair to Berwick, and aſſiſt with his advice in the intended treaty. He obeyed this command with ſuch alacrity, that the earl of Airly, and Aboyne, Huntley's ſon, who had taken up arms in the North, were ſacrificed by his abrupt departure.

The King inſiſted, before the negociation was entered on, that the proclamation, which the covenanters would not ſuffer to be read at Edinburgh, ſhould be publiſhed at the head of the Scotch army: On this punctillo being complied with, commiſſioners were named for the treaty. On the King's ſide were the earls of Arundel, Eſſex, Holland, Saliſbury, Berkſhire, and ſecretary Cook; on that of the Scots, the earls of Rothes, Dunfermling, and Loudon, Sir William Douglas (the ſheriff of Teviotſdale), and two miniſters, Johnſon and Henderſon. When the commiſſioners had met in the earl of Arundel's tent, and were on the point of entering on the treaty, they were ſurpriſed with the ſudden appearance of the King, who addreſſing himſelf to the Scotch deputies, told them, that underſtanding they gave out they could not be heard, he was come to hear them in perſon. This proceeding ſhocked the commiſſioners; they concluded that the treaty was never intended by the King to be a fair one, ſince himſelf, the ſovereign of both people, and a principal party concerned, over-awed by his preſence free debate. The earl of Rothes evaded entering into particulars, and ſaid in general, that all they deſired was to be ſecured in their religion and liberties. The earl of Loudon, younger than Rothes, and full of ardor, was entering into an harangue; but he was interrupted by Charles in the following high

ſtrain: "Sir, I will not admit of any of your excuſes for your by-paſt actions; but if you come to ſue for grace, ſet down your deſires particularly in writing, and you ſhall receive your anſwer." On this, the Scotch deputies ſet down the following demands, with conſtitutional reaſons and grounds for them: "That the acts of the late aſſembly at Glaſgow ſhould be ratified in the enſuing parliament; that all matters eccleſiaſtical ſhould be determined by the aſſemblies of the kirk, and matters civil by parliament; that his majeſty's ſhips, and forces by land, be recalled; that all perſons, ſhips, and goods, arreſted, be reſtored; and that all excommunicated perſons, incendiaries, and informers againſt the kingdom, who had cauſed theſe commotions for their own private ends, might be given up, to ſuffer their deſerved cenſure and puniſhment." Anno 1639.

The King was now in the utmoſt perplexity: He had gone too far to retreat without giving great diſtaſte to the Engliſh, who ſeemed extremely deſirous that the Scots ſhould be ſatisfied in all their reaſonable demands. The demands they had made he did not chuſe to grant, yet he could not deny but they were conſonant to the principles of their conſtitution. After he had publiſhed the horrible rebellion of the Scots, after having levied a powerful army and fitted out a fleet to defend England againſt their attack, theſe reputed rebels, theſe barbarous robbers and invaders, in a pacific manner fling themſelves at his feet, and implore leave to enjoy their civil and religious rights *, and that thoſe incendiaries

* In the courſe of the negociation, the Scots told the King, that if he would give them leave to enjoy their religion and their laws, they would, at their own expence, tranſport their army to aſſiſt in the recovery of the Palatinate—a memorable

Anno 1639. who had endeavored to ſet two neighbor-kingdoms, united under one ſovereign, at variance, might be tried by the laws of their country, and receive the puniſhment they deſerved. The reaſonableneſs of theſe deſires could not be diſputed; were they peremptorily refuſed, it would fully convince the public how groſly they had been abuſed by Charles's repreſentation, and that the Scots had more reaſon for their oppoſition than he choſe to allow. Hampered with theſe difficulties, he concluded a ſudden pacification, without other than general ſtipulations: That the King ſhould withdraw his fleet and army; the Scots diſmiſs their forces; the King's forts be reſtored to him; that there ſhould be no meetings among his ſubjects but ſuch as were warranted by act of parliament; and that a general aſſembly and parliament ſhould be immediately ſummoned to compoſe all differences. Pacification.

The King's anſwers to the demands of the Scots were ſo ambiguous and equivocal, that it appeared plainly both ſides eagerly embraced an opportunity to get out of their preſent ſituation, and avoid coming to extremities. It is not to be ſuppoſed that the Scots would have been content with general ſtipulations, had they not found the King, contrary to their expectation, accompanied with an army of twenty-two thouſand men. They had imagined that the general diſcontent of the Engliſh nation would have rendered it impoſſible for him to bring any conſiderable force againſt them: To their great aſtoniſhment they found themſelves deceived *; and moreover, their trade

morable circumſtance, unnoticed by hiſtorians. *Sydney's State Papers*, vol. II. p. 602.

* It was generally believed in England, that the nobility would have refuſed to attend the King in his expedition againſt the Scots. *Sydney's State Papers*, vol. II. p. 591.

was

was entirely ſtopped by the King's fleet. In Anno 1639.
theſe circumſtances the Scotch deputies thought it expedient to accept of terms, expreſſed in a manner which would bear a very favorable interpretation for them, when a proper opportunity offered to diſcuſs the point. The King, though his army was infinitely ſuperior to that of the Scots, was not without ſuſpicions that they might have a purpoſe to betray him; if not, it was a very doubtful point whether they would venture their lives in his quarrel; and the loſs of a battle might be the loſs of his three kingdoms. He therefore did not heſitate to promiſe, that the Scots ſhould enjoy their religion and liberties according to the ancient laws of that kingdom, determining to conſtrue theſe terms in a ſenſe which ſhould do no injury to his pretenſions.

When the deputies returned to their camp, their principals were much diſappointed to find that in the ſtipulations no mention was made of the abolition of epiſcopacy, nor acknowledgment of the Glaſgow-aſſembly. On this diſcontent, the deputies drew up a paper containing certain qualifications, which they aſſerted ought to have the force of poſitive ſtipulations. Whether theſe were inferences drawn from Charles's ambiguous expreſſions, or whether they were poſitively mentioned in the courſe of the treaty, is uncertain; ſince Clarendon, a cotemporary hiſtorian, a profeſſed panegyriſt of Charles, and a violent enemy of the Scots, obſerves, that what paſſed in the treaty before ſigning the articles was verbal, very little material being committed to writing, and that no two who had been preſent agreed in the ſame relation of what was ſaid and done. The ſame author farther acknowledges, that though every body diſavowed the contents of the paper

Clarendon. vol. I. p. 98. & ſeq.

the

Anno 1639. the Scots publiſhed, yet nobody would undertake to publiſh a copy in contradiction to it.

The Scots, on the encouragement they had met with in their intercourſe with the Engliſh noblemen, entered a public proteſtation, that they did not intend to vacate any of the proceedings of the late general aſſembly at Glaſgow, by which prelacy was aboliſhed, and the biſhops excommunicated; and declared, that the acts of the approaching ſeſſion of the college of juſtice ſhould be null, becauſe it was appointed without a legal notice, to their great prejudice. Charles's pride was hurt by not having been able to chaſtiſe the Scots, or to have reduced them to ſubmiſſive acknowledgments; and ſoon repented having concluded on terms he thought much too honorable for rebels *. Theſe reſentments, on his return to London, were much inflamed by the

Sanderſon, p. 277.

* He had determined to be preſent at the general aſſembly and parliament, which, by the terms of the pacification, were to be held in Scotland. He flattered himſelf, that the Scots would have been unable to withſtand the beams of majeſty, and that he ſhould have influence enough, by his preſence, to get epiſcopacy eſtabliſhed, and the eccleſiaſtical canons received. The conduct of the Scots, and the perſuaſions of Wentworth, made him return to London to take other counſels; Wentworth ſtill flattering him with the hopes, that England and Ireland would, if rightly managed, furniſh him with an aſſiſtance ſufficient to oblige the Scots to conform to his will. "Nothing, ſays he, ought to be yielded to them, which, by precedent, may encourage the Engliſh to conteſt your royal commands, or the laws already eſtabliſhed." He farther adviſed the King to keep ſtrong garriſons in Berwick and Carliſle, to perfect the fortifications of Leith, and, if poſſible, to furniſh it with a large body of men approved for their loyalty to his ſervice. "As for myſelf, ſaid he, I ſhall uſe all diligence in taking the oath of the Scots, to allay the poſitive demands your majeſty may meet with in the next aſſembly of covenanters, when they find all are not minded to dance after their pipe." *Strafford's Letters*, vol. II. p. 362. 372. *Nalſon*, vol. I. p. 240, *& ſeq.*

queen

queen and Laud: The queen upbraided him with cowardice, for having loſt the opportunity of cruſhing rebellion in its bud, and, by an example of vengeance on the Scots, deterred others from attempting to oppoſe royal authority. Laud was quite furious in his rage, and ſtigmatized all thoſe who had any hand in the pacification. The army was diſbanded with marks of diſpleaſure; Arundel, Saliſbury, and Pembroke, were treated coldly; Holland, though ſupported by the queen, could hardly maintain a footing in the court; and Eſſex, who had obeyed every direction which had been given him with the utmoſt punctuality, and whoſe behavior in this buſineſs is commended by the courtiers, was, notwithſtanding, diſcharged in the croud, without ceremony, or any ordinary civility paid him; and ſome time after refuſed the command of the foreſt of Needwood, a ſuit he had made with earneſtneſs, becauſe the foreſt was contiguous to his eſtate. Anno 1639.

Secretary Cook, that old drudge of the court, and tool of every adminiſtration, was made the ſacrifice to appeaſe the queen's anger and the King's chagrin: Though near fourſcore years of age, he was turned out of his office, on pretence that he inſerted ſomething in the treaty which he ought not to have done. This diſgrace put on the old man was much againſt Wentworth's inclination, whoſe creature Cook had ever profeſſed himſelf: Moreover, the deputy was farther mortified by Vane's being appointed to the ſecretary's office, a man whom he utterly deteſted, whoſe advancement he had ſometime ſtopped, and for whom the queen and the marquis of Hamilton were fain to exert all their intereſt.

The King next vented his diſpleaſure on the paper publiſhed by the Scots, alleged to be the grounds

Anno 1639. grounds and ſubſtance of the treaty: It was ordered to be burnt, and a proclamation was iſſued, commanding all perſons who had any copies to deliver them to the juſtices of peace *. This gave ſuch a general alarm to the Scots, that though the King had diſbanded his troops without reſerve, they took ſuch precautions in diſmiſſing their forces as made it eaſy to draw them together again, and continued the authority to their Tables, alleging it was neceſſary they ſhould act till all danger was blown over.

From the firſt ſigning the pacification, Charles had expreſſed uneaſineſs concerning what might be agitated in the approaching general aſſembly and parliament in Scotland. He wanted to gain over ſome of the heads of the popular party; and for this purpoſe ſummoned fourteen of the covenanting lords to attend him at Berwick, to conſult on the affairs of their country: The Scots apprehended treachery, and would not permit above three of their chiefs to obey the mandate; theſe were Montroſe, Loudon, and Lothian. The two laſt reſiſted all the temptations they met with in this interview; but Montroſe, a young, giddy, hot-headed nobleman, of no fixed principles, whoſe reſentment, on ſome mortifications received from the ſtiff formal carriage of Charles, had been his only inducement to enter into the oppoſition, was immediately gained over by the affected ſmiles of a court, and ſoon convinced his

* Guthrie the hiſtorian obſerves, that Charles was ſo little cured of his execrable notions of government by the difficulties he had met with from the Scots, that he minuted this order in the council-book by the name of an Act of State, a term introduced by him, and which implied that it ought to have the force of an act of parliament. *Guthrie*, vol. III. p. 968.

party

party that he was not a man in whom they could place any confidence. Anno 1639.

During the interval of peace, an incident happened which equally alarmed the ſubjects of England and Scotland. Cardinal Richlieu had concerted meaſures with the prince of Orange to make a vigorous attack on the dominions of the King of Spain. The Dutch, with a French ſubſidy, were enabled to fit out a very large fleet to go againſt Antwerp, whilſt France undertook to beſiege St. Omer's. The court of Spain having intelligence of the intentions of theſe powers, fitted out a ſquadron conſiſting of fifty ſhips, with twelve thouſand foot on board, which was to join another ſquadron lying in the port of Dunkirk. The vigilant Richlieu gave advice of this armament to the prince of Orange, who received intelligence from a ſpy, chief clerk to the government at Bruſſels, that the Spaniſh general, Antonio Doguendo, was inſtructed to put himſelf under the protection of the Engliſh fleet, and to land his men on the coaſt of Flanders. In the ſtraits between Dover and Calais, the Spaniſh fleet was met by Van Tromp, the Dutch admiral, who, with a very inferior force, engaged them, and forced them into the Downs. The prince of Orange ſeized the opportunity of revenging the inſults his country had lately received from Charles: He ſent the Dutch admiral, Van Tromp, a ſtrong reinforcement, with orders to purſue and fight the enemy, though ſheltered under the protection of England. Van Tromp ſignified to the Engliſh admiral, that if he took part with the Spaniards his orders were to fight both fleets. In vain did the Spaniards demand the aſſiſtance they had fought from their profeſſed friend the king of England. Charles's fleet, not-

Lettres d'Eſtrade, ed Lond. 1743, tome I. p. 12, & ſeq.

Id. p. 39, & ſeq.

Burchett's Naval Hiſt.

Anno 1639. notwithſtanding the heavy tax he had exacted on the pretence of ſhipping, was in very bad order, nor could he be certain of the obedience of the ſailors, who, with the reſt of his ſubjects, were impreſſed with a notion that the Spaniards were come to aſſiſt him in his ſchemes of government, and to ſubdue all oppoſition to the tyranny of prieſthood. The Spaniſh fleet was ill provided, and though conſiſting of ſixty-ſeven ſhips, was much inferior in number to the Dutch, whoſe mighty force was no leſs than an hundred large veſſels. In theſe diſtreſſing circumſtances, Charles endeavored to maintain the appearance of impartiality, and ſent orders to Sir John Pennington, who lay in the Downs with thirty-four men of war, to join that fleet which ſhould be firſt attacked. At the ſame time, he adviſed the Spaniards to ſlip away with the firſt fair wind, for he could not be anſwerable for the ſucceſs of an engagement if they were attacked by the Dutch. Charles's ſcheme was fruſtrated by Van Tromp, who began the attack on pretence that the Spaniards had violated their privilege of protection, by killing a ſeaman on board his own barge. This circumſtance furniſhed Pennington with an excuſe to keep the deſired neutrality. The Spaniards, who had found means to run over twelve of their ſhips to Dunkirk, were hemmed in on all ſides by the Dutch, who forced them to run twenty-three veſſels on ſhore, ſeven of which were deſtroyed; of the reſt of the fleet, ſixteen ſhips were taken, two burnt, and fourteen loſt near Bulloign and Calais; the remaining number of the twenty-three forced on ſhore, after having been deſerted by the Spaniards, were manned by the Engliſh, and delivered to their owners. In this complete victory, the Dutch loſt but ten ſhips:

Naval engagement in the Downs.

ſhips: And thus the naval armament of Spain, to the great joy of the Engliſh ſubjects, who had conceived an inexpreſſible terror at their firſt appearance, met with an irrecoverable blow, though ſheltered in a manner in the very arms of their ſecret ally the king of England *. Charles complained loudly of this inſult, and made uſe of it as an argument to exact with redoubled ſeverity the tax of ſhip-money. Anno 1639.

The marquis of Hamilton, who found that Charles did not intend to be ſincere in his dealings with the Scots, and that he was determined againſt the total abolition of epiſcopacy, the only conceſſion which could content the covenanters, declined acting again as high-commiſſioner. On his refuſal, the earl of Traquaire was inveſted with that office. Traquaire's inſtructions were very minutely drawn up; among other articles were the following concerning biſhops: "For the better facilitating our other ſervices, and the more peaceable and plauſible progreſs in all buſineſſes recommended to you, we allow you, at any time you ſhall find moſt convenient after opening the aſſembly, to declare, that notwithſtanding our own inclination, or any other conſiderations, we are contented, for our peoples' full ſatisfaction, to remit epiſcopacy and the eſtates of biſhops to the freedom of the aſſembly; but ſo as no reſpect be had to the determination of the point in the laſt aſſembly. But in giving way to the aboliſhing epiſcopacy, be careful that it may be

* Northumberland writes to the earl of Leiceſter, that his majeſty's deſigns were a little to be wondered at, that he ſhould endanger the receiving an affront, and expoſe his ſhips to much hazard, rather than command both the Spaniſh and Holland fleets out of the Downs. *Sydney's State Papers*, vol. II. p. 612.

Anno 1639. done without the appearing of any warrant from the biſhops; and if any offer to appear for them, you are to enquire for their warrant, and carry the diſpute ſo as the concluſion ſeem not to be made in prejudice of epiſcopacy as unlawful, but only in ſatisfaction to the people, for ſettling the preſent diſorders, and ſuch other reaſons of ſtate; but herein you muſt be careful that our intentions appear not to any."

Diſſimulation of Charles.

On the peruſal of theſe articles, an unobſerving reader would imagine, that Charles intended to leave off trifling, and anſwer to the full the expectations and wiſhes of his Scotch ſubjects. This was far from his intention: The appearance of a conceſſion, contrary to the dictates of his conſcience, and his principles of government, was a mere ſubterfuge, and never intended but to deceive. At the ſame time when theſe inſtructions were given to Traquaire, a letter was ſent to the biſhops, with directions to give in to the commiſſioner a proteſtation againſt the aſſembly and parliament, not to be read or argued in the aſſembly, "But, ſays the letter, to be repreſented to us by our commiſſioner, which we promiſe to take ſo into conſideration as becometh a prince ſenſible of his own intereſt and honor, joined with the equity of your deſires. And you may reſt ſecure, that though perhaps we may give way for the preſent to that which will be prejudicial both to the church and our own government, yet we ſhall not leave thinking in time how to remedy both: We do hereby aſſure you, that it ſhall be ſtill one of our chiefeſt ſtudies how to rectify and eſtabliſh the government of that church aright, and to repair your loſſes, which we deſire you to reſt ſatisfied with."

Charles imagined that a proteſtation from the

biſhops would affect both the concluſions of the aſſembly and parliament: For as biſhops, in his opinion, had a right which they could never be deprived of but by their own conſent, ſo the determinations of a parliament, from which they were forcibly excluded, would of courſe be invalid; and thus, when a proper opportunity preſented, its acts might be declared vacate, though they had obtained the royal aſſent *. Anno 1639.

The Scots either had very good intelligence of all the ſchemes plotted at court, or ſeem to have had a thorough knowledge of the King's diſpoſition and temper: Though after the pacification they quitted the form of an army, yet they kept together in bodies, and retained all their officers in pay; they carried on their fortifications, and bought up large quantities of arms in foreign ſtates. Thus prepared, when the ſynod met, they declared all thoſe aſſemblies null which had been condemned in the laſt meeting, and paſſed an act, which was ratified by the commiſſioner, with a promiſe that he would ratify the ſame in parliament, imputing the troubles of the kingdom to the following cauſes: The liturgy, the canons, conſecration, ordination, the five articles of Perth, the change of the church-government into epiſcopacy, the introduction of eccleſiaſtics into civil offices, and the interruption of general aſſemblies. The covenant was commanded to be ſubſcribed, with a new explanation, and another aſſembly was appointed to meet at Aberdeen, in the month of July in the following year †. Scotch tranſactions.

* It was the earl of Traquaire who ſuggeſted this to the King. *Memoirs of the Duke of Hamilton*, p. 149.

† During the ſitting of this aſſembly, the biſhops of Dunkeld and the Orkneys abjured epiſcopacy, as having no foundation in the word of God, and which had had pernici-

Anno 1639. On the new explanation of the covenant, it was taken by the commiſſioner and the reſt of the council *. Though the explanation was favorable to the royal authority, and was a great point gained, as matters then ſtood, yet Traquaire incurred the reſentment of his maſter for a compliance which ſhocked both his pride and his principles †.

The conduct of the parliament was no leſs animated than that of the general aſſembly. The covenanting party ſhone forth in the meridian of their glory; and ſuch was the influence of the ſpirit of Liberty, that theſe Northern chiefs, the inhabitants of an hitherto-uncivilized country, had conducted their oppoſition to ty-

ous conſequences in many parts of Chriſtendom, and particularly in Scotland. *Monteth*, p. 50, *& ſeq.*

* Explanation of the covenant. "We do ſwear not only our mutual concurrence and aſſiſtance for the cauſe of religion, and to the utmoſt of our power, with our means and lives, to ſtand to the defence of our dread ſovereign and his authority in the preſervation and defence of the ſaid religion, liberties, and laws of this kirk and kingdom, but alſo in every cauſe which may concern his majeſty's honor, we ſhall, according to the laws of this kingdom, and duty of good ſubjects, concur with our friends and followers, in quiet manner or in arms, as we ſhall be required of his majeſty's council, or any having his authority." The following clauſe was prefixed to the names of the ſubſcribers: "We ſubſcribe this covenant according to the explanation it hath received from the general aſſembly; that is, as declaring the five articles of Perth, the government of the church by biſhops, and the beſtowing civil places on churchmen, to be unlawful in this church." Traquaire avowed, that he ſigned the covenant as a ſubject, not as his majeſty's high-commiſſioner. *Nalſon*, vol. I. p. 253. *Rapin*, vol. X. p. 387. *Monteth*, p. 50.

† Part of Traquaire's inſtructions were, to have an eſpecial care that the bond ſhould be the ſame as was in James's time, and that he gave no aſſent to the farther interpretation of it than what might ſtand with the King's intentions, well known to him.

ranny

ranny with a regularity and judgment which would have graced the councils of an eſtabliſhed commonwealth. And when by wiſe and vigorous meaſures they had extorted from their unwilling ſovereign a parliament, to ſettle the civil and religious rights of the nation, they exerted talents which rivalled the reputation of Grecian legiſlators. The ſcheme of the party was to rectify and fix the conſtitution of Scotland, till now inconſiſtent, precarious, and unſettled; and this ſagacious parliament, compoſed of the chief members of the oppoſition, ſeem in their purpoſed model to have had an eye to ſome of the pureſt and the firmeſt fundamentals in the ſyſtem of the Engliſh monarchy. Their firſt attempt was to aboliſh the lords of the articles, and thus reinſtate the parliament in that authority which had, by means of this inſtitution, been entirely engroſſed by the crown. They preſented to the high-commiſſioner an act, declaring, that nothing done, or to be done, in parliament, ſhould be valid, except the form of electing articles heretofore obſerved was altered, and every eſtate allowed to chuſe their own articles *. The act of the general aſſembly concerning epiſcopacy was ratified; and on the commiſſioners demanding, that the third eſtate ſhould be repreſented by fourteen lay-abbots of the King's chuſing, it was rejected with ſpirit; and a vote paſſed, that the third eſtate ſhould be completed by ſmall barons, to be elected by the commonalty.

Anno 1639.

Ruſhworth, vol. III. p. 1025, & ſeq.

Whitlock, p. 30.

The next buſineſs the parliament undertook was to abridge the power of the crown in the

Ruſhworth, vol. III. p. 1003, & ſeq. p. 1027, & ſeq.

* They for this time gave way to the commiſſioners, chuſing eight noblemen in the place of the biſhops; but they voted it ſhould be no example for the future. *Whitlock*, p. 29, & *ſeq.*

Anno 1639. point of coin, a privilege which rendered property precarious and dependent on the monarch. To ſecure the ſubject from this grievance, they paſſed an act, ordaining that the coin ſhould not be meddled with but by advice in parliament. The King having made two Engliſhmen governors of the caſtles of Edinburgh and Dumbarton, the Scots took the alarm, and, that they might not be bridled with foreign garriſons, preſented an act, ordaining that no ſtrangers ſhould be intruſted with the keeping any caſtles, nor other perſon put in them, but by advice of the eſtates. The next act ordained, that no patent of honor ſhould be granted to any ſtranger, but ſuch as had a competency of land-rent in Scotland: This was very important to the ſecurity of the country, ſince, without this reſtriction, Charles might have filled the parliament with Engliſhmen, the creatures of his court. The ſixth act ordained, that no commiſſion of juſticiary or lieutenantcy ſhould be granted but for a limited time. And the ſeventh proteſted againſt the precedency of the lord-treaſurer and lord-privy-ſeal, becauſe not warranted by law*. There were other ſalutary acts paſſed of the ſame nature; ſuch as ſettling the book of rates by advice of parliament; limiting the power of the Exchequer; demanding that the council ſhould be cenſurable by parliament; an act touching proxies and ward-lands, with a ſupplication that the authors of the book called "The Large Declaration," in which the Scots had been groſly abuſed, ſhould be delivered

Ruſhworth, vol. III. p. 960.

* The parliament were ſo jealous of being treacherouſly dealt with, that they deſired leave to appoint ſome of their members to ſit by the clerk, and ſee the votes were rightly taken. *Ruſhworth*, vol. III. p. 1010.

up

up to the juſtice of the kingdom *. Charles receiving intelligence of theſe proceedings, ordered his commiſſioner to prorogue the parliament till the ſecond of June 1640; and if he met with oppoſition, to declare that the members who ſhould continue to ſit were guilty of high-treaſon †. Anno 1639.

The parliament drew up a declaration, ſetting forth the irregularity of theſe proceedings; that the commiſſioner had infringed their privileges in many articles, and that the prorogation of the parliament, without their own conſent, was contrary to the uſage of the kingdom; and that though they were willing to break up, to give the King a proof of their obedience, yet they thought it neceſſary to leave a committee of each

* It was penned by Balcanqual, dean of Durham. *Memoirs of the Duke of Hamilton*, p. 116.

† The following directions, which the King wrote to Praquaire on the buſineſs of the parliament, furniſh a freſh proof of the inſincerity of his intentions in regard to the Scots. "As we have formerly written to you, we cannot conſent to the reſcinding any acts of parliament made in favor of epiſcopacy; nor do we conceive that our refuſal to aboliſh thoſe acts is contradictory to what we have conſented to, or to what we were obliged to. There is leſs danger in diſcovering any future intentions of ours, or at the beſt letting them gueſs at the ſame, than if we ſhould permit the reſcinding thoſe acts of parliament which our father with ſo much expence of time and induſtry eſtabliſhed, and which may hereafter be of great uſe to us. And though it ſhould perhaps caſt all looſe (as you expreſs), yet we take God to witneſs, we have permitted them to do many things in this aſſembly, for eſtabliſhing of peace, contrary to our judgment. And if, on this point, a rupture happen, we cannot help it; the fault is on their part, which one day they will ſmart for. We likewiſe wrote formerly to you, that we thought it not fit at this time that the power of the lords of articles ſhould be reſined, and that you are to avoid the ſame, and to be ſure not to conſent thereunto." *Memoirs of the Duke of Hamilton*, p. 158, *&c. ſeq.*

eſtate

Anno 1639. eſtate to preſent a remonſtrance to his majeſty, and attend his gracious anſwer.

Ruſhworth, vol. III. p. 956. The earls of Dumfermling and Lothian were the perſons ſent up to preſent this to the King, and to demand the royal aſſent to the acts which had paſſed this parliament. The King refuſed to give the deputies audience, on pretence that they came without a warrant from his commiſſioner.

Id. p. 1031, & ſeq. When the earl of Traquaire arrived, he was ordered to report to the Engliſh council what had paſſed in Scotland ſince the pacification. The council, without being acquainted with the conſtitution of the kingdom, the legality of the paſt tranſactions, the rationality of the claims, precipitately declared, that it was abſolutely neceſſary to reduce the Scots to their duty by the force of arms *. The committee at Edinburgh, at length, obtained leave to ſend deputies to juſtify the conduct of the parliament.

Id. p. 992, & ſeq. Theſe refuſed to plead before a committee of the council, and alleged that they were ſent to the King and not to the council of England, who had no juriſdiction over the Scots. The King at length vouchſafed to give them a perſonal audience, in the preſence of the appointed committee. The earl of Loudon was the mouth of the deputation: He vindicated all which had been done in Scotland, and inſiſted, in a very decent though determined manner, on the con-

Id. p. 1033, & ſeq. firmation of the conſtitutional points. Charles pretended to believe, that the deputies were come to treat with him about conceſſions: He firſt aſked

* The earl of Morton ſaid, that as the King had given the Scots leave to petition in parliament for redreſs, there was not ſufficient ground for war till their reaſons were heard. On this the earl of Strafford peremptorily aſſerted, that there was ground enough for war. *Nalſon*, vol. II. p. 82.

them,

them, how he could be ſure they were ſent by the people they pretended to repreſent? and then, what power they had to give him ſatisfaction? The deputies, after ſhewing their authorities, anſwered, if what they had to propoſe was agreeable to law, they were convinced his majeſty would be ſatisfied: Who is to be judge of that, ſaid the King? The law, returned the deputies, is ſo clear, that there is no need of a judge. Charles, after triffing in this manner, declared, that the deputies were not inveſted with proper authority to treat about an accommodation; that their application was undutiful; and that enough had been done already to give the Scots ſatisfaction *. Anno 1639.

Determined on war, he publiſhed a declaration to vindicate his own conduct, and accuſe the Scots: In this he endeavored to ſtir up the re-

* Laud, who was one of the members of the committee, entered into a diſpute with the deputies, and alleged, that the King was not obliged to ratify the concluſions of the aſſembly; the deputies affirmed that he was. In the courſe of this diſpute Laud grew warm, and ſaid, that the clergy of England in their convocation-houſe did not aſſume ſuch authority as the general aſſembly of Scotland. To this the deputies anſwered with great ſpirit, that the compariſon would not hold; for the convocation-houſe, which did only conſiſt of prelates, and a part of the clergy, was of a different nature from their general aſſemblies, where his majeſty or his commiſſioner ſat, and where the whole congregations and pariſhes of the kingdom were repreſented by their commiſſioners from preſbyteries, ſo that what was done by them was done by the whole church and kingdom. At this Laud exclaimed, with great heat, "That the convocation-houſe in England was as eminent a judicature as the general aſſembly in Scotland; that the clergy and himſelf had been a long time members of the parliament; and that neither the Engliſh nor any reformed church had lay-elders as the Scots had in their aſſemblies, and he would loſe his life before they ſhould have them." *Ruſhworth*, vol. III. p. 998, *& ſeq.*

ſent-

Anno 1639. King's Declaration, Rushworth, vol. III. p. 1027, & seq.

sentment of the English against them, on the objection made to the entrusting important charges in the hands of strangers; and attempted to shew that all their demands were not only illegal but absurd. His arguments on this head are puerile, and can only convince those who, like himself, idolized monarchical power. Traquaire, who was hated by the prelates on a suspicion that he had betrayed them *, and who had incurred the King's resentment for the moderation with which he had behaved in the character of his commissioner †, found that he could no otherwise stand his ground but by humoring the inclination of the court for a war, and inveighing with great animosity against his countrymen. He represented, that they were not to be satisfied; that the circumstances of the King's strength in Scotland was such, that if a better concerted in-

Memoirs of Hamilton, p. 160.

* It has been said by some authors, that, on the bishops writing to Laud to prevail with the King to have the service-book kept back till the nation was better prepared to receive it, Traquaire, with a design to ruin the bishops, rode post to London, and assured Laud, that there was no danger to be apprehended, and that himself would undertake to carry the business through without any disturbance. The credulous archbishop was so affected with these promises, that he commanded the bishops to proceed in the work at all hazards, and that they should acquaint the earl of Traquaire with all their proceedings. To these commands Laud added, that no bishop should presume to suffer any fast to be kept on the Lord's Day; and if the canons were not already printed, they should make one on purpose against that unworthy custom. *Rushworth*, vol. II. p. 314.

† Previous to his being entrusted with this office, he had been put under arrest for his too easy giving up the castle of Dalkeith, in which were lodged the Scotch regalia. The prelates had represented his conduct as proceeding either from cowardice or treachery; but he made it appear that the place was indefensible. At the same time this happened, the earl of Roxborough, a staunch friend and creature of the court, was confined because his son had joined the covenanters.

vasion

vaſion was ſet on foot, Ruthwen, the governor of the caſtle of Edinburgh, would ſoon teach them their duty *. To furniſh the King with a pretext for hoſtile reſolutions, he put into his hands a letter he had picked up, written by ſeven of the covenanting lords to the king of France, deſiring his protection and aſſiſtance. This letter †, on the pacification, had been reſerved, and never ſent. Anno 1639.

To the aſtoniſhment of the Engliſh court, now, for the firſt time, was diſcovered the real ſource from whence the Scots had obtained their aſſiſtance of men and money. Charles had attributed it to the Dutch, or to the party of Calviniſts ſpread over Europe: it never once entered his

* A little time after this, a great part of the walls of Edinburgh-caſtle, mounted with cannon, fell down of themſelves, and the covenanters very prudently prevented their being rebuilt.

† It was as follows:

"Sir, your majeſty being the refuge and ſanctuary of afflicted princes and ſtates, we have found it neceſſary to ſend this gentleman, Mr. Colvill, to repreſent unto your majeſty the candor and ingenuity, as well of our actions and proceedings, as of our intentions; which we deſire to be engraved and written to the whole world, with a beam of the ſun, as well as to your majeſty. We therefore moſt humbly beſeech you, Sir, to give faith and credit to him, and to all which he ſhall ſay on our part touching us and our affairs, being moſt aſſured, Sir, of an aſſiſtance equal to your wonted clemency, heretofore and ſo often ſhewn to this nation; which will not yield the glory to any other whatſoever to be eternally, Sir, your majeſty's moſt humble, moſt obedient, and moſt affectionate ſervants, Rothes, Montroſe, Leſley, Marr, Montgomery, Loudon, Forreſter."

Biſhop Burnet ſays, that this letter was propoſed and dictated by the earl of Montroſe; that when it was brought to the earl of Lauderdale to ſign, he objected that it was written in falſe French; and that on this objection it was laid aſide for ſome time. *Burnet's Hiſtory of His Own Times*, vol. I. p. 30.

head

Anno 1639. head that the reformed, whom he, a Proteſtant prince, had treated with the utmoſt rigor, at the ſame time when he was courting the triple crown at Rome, could receive encouragement from a prelate of the Romiſh church; and ſo much was he impreſſed with his father's notion of a ſympathetic amity among ſovereigns, that he imagined brother-monarchs bound by every tie moral and political to aſſiſt each other againſt rebellious ſubjects. It was the part he had always acted, when he followed the impulſe of his own inclinations in the quarrel between the king of France and the Proteſtants of that kingdom. The falſe light in which he viewed theſe things, rendered him obnoxious to the revengeful ſpirit of a vindictive prieſt.

To ſecure the ſucceſs of the ſcheme which Richlieu, with the ſtates, had formed on the Auſtrian Netherlands, it was neceſſary at leaſt to obtain a neutrality from the king of England. To bring about this buſineſs, d'Eſtrade was ſent by the cardinal to the Engliſh court, with inſtructions to offer the King his own terms. Richlieu (who had been long on an ill footing with the queen of England, through the means of madam de Chevreuſe, who had repreſented him as a devil in the part he had acted againſt Mary de Medicis, the queen-mother of France) gave d'Eſtrade particular directions to make his firſt applications to Henrietta, to endeavor to remove the prejudice ſhe had taken againſt him, and to make profeſſions on his part of a paſſion to ſerve her, and to deſtroy by his actions the ill offices which had been done him by madam de Chevreuſe. Henrietta received the cardinal's civilities with all the haughtineſs which could be expected from her inexperience, pride,

Lettres d'Eſtrade, ed. Lond. 1743, tome I. p. 1, & ſeq.

and paſſionate temper: ſhe not only ſilenced Anno 1639.
d'Eſtrade on his offering to enter on a vindication of Richlieu's conduct, but moreover told him, that ſhe wanted nothing of that miniſter, and was determined never to have any friendſhip for him. The anſwer which Charles made to the propoſal of the ambaſſador was as open and ſincere as was that of the queen: On d'Eſtrade's aſſuring him, that if he would comply on the ſubject of the deſired neutrality, the cardinal would prevail with the French king to ſend him aſſiſtance againſt ſuch of his ſubjects as might have rebellious views, he anſwered, that he had no occaſion of foreign aid to reduce his ſubjects; and ſhould be ſo far from obſerving a neutrality, that he was determined to have a fleet in the Downs with fifteen thouſand troops on board, ready to land in Flanders in caſe of need. Richlieu received the intelligence of the manner in which his offers and civilities had been refuſed with all that indignant ſpirit of revenge which might have been expected from a man conſcious of his power, abilities, and conſequence.

This happened at the beginning of the breaking out of the commotions in Scotland. D'Eſtrade received immediate orders to withdraw into Holland, to perſuade the prince of Orange to attack Antwerp, with intelligence that Richlieu would ſend his almoner, a Scotchman, to Edinburgh, to encourage the Scots in their undertakings againſt Charles, and to promiſe them the aſſiſtance of the king of France. "It was proper and advantageous, wrote he in his diſpatches to d'Eſtrade, to diſcover the ſentiments of the king and queen of England: if they had had the addreſs to conceal them, they would have perplexed us greatly. But before the end of the twelve-

Anno 1639. twelvemonth they ſhall repent their having refuſed the offers which you made them from his majeſty. You could not have ſpoken better, nor could you have better anſwered the king of England on my account: he ſhall ſoon know that I am not deſpicable."

All Charles's panegyriſts, and many candid authors, who have been willing to add light to a character almoſt totally ſhaded with prejudice and vice, have taken the opportunity, on this part of his conduct, to beſtow infinite praiſes on what they term patriotiſm and heroiſm. They ſuppoſe he had at length acquired a juſt idea of national intereſt; and give him great merit on his refuſing to be biaſſed by the proffers made him of aſſiſtance againſt the riſing ſpirit of his ſubjects. If the motives aſſigned by theſe authors had been the real ones which actuated him on this important occaſion, nothing would be more unjuſt than to deprive him of the praiſes due to a reſolution at once ſpirited and diſintereſted: Charles had not at this time any idea of wanting a foreign aſſiſtance; and it muſt be remembered, that the Scotch tumults were at firſt held very contemptible by the Engliſh court; that the King was naturally ſanguine in all conteſts which concerned the royal authority, which he thought could not but meet with ſupport from every individual who had ſenſe or honeſty; beſides, he was entirely governed in this affair by Henrietta his wife, who mortally hated Richlieu, and had, with her mother Mary of Medicis*, who was at

* Her intrigues in France had made that country no place of abode for her. She fled to Bruſſels, where ſhe was much careſſed by the cardinal infanta; but ſhe was ſo hated by the people, that for fear of violence to her perſon ſhe removed to Holland, from whence ſhe was invited into England by the queen

this time entertained at the Engliſh court, eſpouſed the Spaniſh faction. The ducheſs of Chevreuſe had been obliged to fly her country for intriguing with the Spaniards; Henrietta invited her over into England *, where ſhe was ſumptuouſly entertained, and a large allowance appointed her. Father Orleans ſays, that many of the French mal-contents took refuge in England; that it was not queſtioned in France but that ſo many diſguſted women would conſpire to unite the King of England with the houſe of Auſtria, whoſe miniſters had daily conferences with the queen, and the King himſelf was preſent. Charles, through female influence, was ſo deeply engaged with that court †, that had he

Anno 1639. Strafford's Letters, vol. II. p. 115. 148. 156.

Orleans, p. 44.

queen her daughter: where ſhe arrived in October 1638, with a great train of Popiſh attendants, and was conducted in high ſtate through the ſtreets of London. The public expreſſed great diſſatisfaction at this event.

The king of France expoſtulated with the Engliſh ambaſſador on the admittance of the queen-mother into England. He ſaid, that ſhe was altogether Spaniſh, and would try all means to hinder a conjunction between the courts of France and England. Lewis farther complained, that all the Roman-Catholics in England were Spaniſh; and argued, that the expence of keeping the queen-mother in England, if otherwiſe employed, might recover the Palatinate; and that ſhe had in her train people who would cauſe diſorders in the court of England. *Whitlock*, p. 28. *Echard*, fol. ed. 1720, p. 467. *Sydney's State Papers*, vol. II. p. 461. 518. 530. 576.

* Henrietta was ſo fond of this intriguing woman, that ſhe permitted her to ſit in her preſence. This was a privilege which it ſeems was denied not only to the French ambaſſadreſs, but to the women of the firſt quality in England. This important point was formally debated on by the Engliſh ambaſſador and the court of France. *Sydney's State Papers.*

† Charles was at this time liſtening to propoſals of a croſs-marriage between two of his children and a ſon and daughter of the king of Spain. The treaty was carried on by madam de Chevreuſe. *Sydney's State Papers*, vol. II. p. 636.

Anno 1639. had the inclination, it would have been impoſſible for him to have acted the part of neutrality which was demanded of him by the French king.

Memoirs of Hamilton, p. 160, & ſeq. On the diſcovery of the letter, Colvil and the earl of Loudon were ſent to the Tower. Loudon vindicated himſelf on the following plea: That the letter was written before the pacification, and for that reaſon was buried in oblivion. He offered to be tried by his peers in Scotland, from which place, he ſaid, he came on his majeſty's warrant, and ought to be returned back again a freeman. It is reported, that Charles was much inclined to deprive him of his life; but was diſſuaded from this violent meaſure by the marquis of Hamilton, who was ſenſible of the miſchief the King would bring on himſelf by ſuch a pro-

Anno 1640. cedure *. The enraged party at court, being

* The following is the ſtory told by Burnet, from a paper written by Dr. White Kennet, biſhop of Peterborough. Charles, in a fit of paſſion, ſent a warrant to Sir William Balfour, lieutenant of the Tower, to execute the priſoner Loudon for high-treaſon. Balfour, at the deſire of Loudon, conſulted with the marquis of Hamilton on what was to be done in the preſent exigence. Balfour and Hamilton went immediately to the King, whom they found in bed: Balfour fell on his knees, and uſed many arguments to perſuade the King to ſuſpend the execution of a warrant which could not be legally proceeded on. The King ſaid, the warrant was his, and it ſhould be obeyed. On this the marquis of Hamilton entered the chamber, and told the King, that if he was ſo determined, himſelf would ride poſt for Scotland, and tell his countrymen, that he had no hand in it. The King was ſo ſtruck with this peremptory declaration that he tore the warrant.

Before the concluſion of the year 1639, the prince-palatine, who, having raiſed a ſmall army in Holland, was beat by Hatzfield, one of the emperor's generals, in Weſtphalia, made another viſit to his uncle the king of England, to ſolicit a ſupply. Charles was not in a condition to grant the requeſt, and ſent the young prince incognito through France to the allied

determined at all hazards to reduce the Scots to obedience by the force of arms, began to take meaſures to raiſe a numerous army: The counties were taxed for their quotas, and ſhip-money, with the arrears due, was exacted with the utmoſt rigor. All this being very inſufficient to ſupply the exigencies of a war, Wentworth, lately created earl of Strafford *, who had been ſent for over on this preſſing occaſion, together with Laud and Hamilton, the three men whom Charles conſulted on important points, encouraged by an opinion that a general averſion and indignation againſt the Scots raged through the whole kingdom; and depending much on the circumſtance of the intercepted letter, adviſed the King to recede from his determined plan; and once again try the old conſtitutional expedient of a parliament.

Anno 1640.

Preparations for another war.

When this reſolution was told to the council, they gave an univerſal voice of approbation: but Strafford, whom conſcious guilt rendered ſuſceptible of doubts and jealouſy, and whoſe fate was wound up with that of his maſter's, was determined, if poſſible, to render him capable of making his own terms, and ſubſcribed twenty thouſand pounds as a free loan; the duke of Richmond, a young nobleman of no conſiderable

allied army, which had promiſed, on his appearance, to acknowledge him general in the room of duke Barnard Saxe-Weymar, lately deceaſed: He was diſcovered at Lyons, and, by an order from the court of France, confined as a priſoner. *Appendix to the Enquiry into Glamorgan's Tranſactions*, p. 15.

* He had often ſolicited this dignity; but Charles, who was ſlow in granting favors even to his moſt determined tools, had poſtponed the indulging his deſires till this period, when his appearing with a new luſtre in Ireland might render that people the more complying to his demands in this preſſing neceſſity of the crown. *Strafford's Letters.*

Anno 1640. Warwick's Memoirs, p. 144.

parts, gave forty thouſand. The example influenced many other great officers in church and ſtate *, and the king found himſelf in a condition to proceed with his armament without waiting for a ſubſidy. Preſuming on this unexpected ſupply, he determined to ſhew the parliament they were not convened out of neceſſity, and that he thought himſelf on a footing to treat them in his uſual ſtyle. Ship-money was continued to be levied, although the grand-jury of Northamptonſhire had the ſpirit to preſent it as illegal †. An unmitigated rigor was uſed in the eccleſiaſtical courts ‡. On the death of Coventry §, which happened about this time, the obnoxious Finch was preferred to the great ſeal, and created baron of Fordich. He began the exerciſe of his office

* Whitlock ſays, that the judges and officers of the courts of juſtice, eccleſiaſtical and civil, were aſſeſſed by the council according to the quality and profit of their places.

† Sir Chriſtopher Yelverton, high-ſheriff of Northamptonſhire, having ſent to the council a copy of this preſentment, was ſharply reprimanded, and ordered to do his office on pain of exemplary puniſhment. *Rapin*, vol. X. p. 398, *& ſeq.*

‡ Some tenants of the church of Durham having combined together, and raiſed money to carry on a proſecution againſt the dean and chapter for raiſing their fines exorbitantly, contrary to a decree of the court at York in the time of Elizabeth, they were called before the council, and Grey and Smith, two men who had been the moſt buſy in this affair, were, by a motion of Laud, committed to the Gate-houſe. Laud ſaid, that the dean and chapter would do well to proceed againſt the proſecutors in the Star-chamber, and never renew the leaſes to them or their children; he was confident it was a practice againſt the church, and that there was a farther deſign in the buſineſs. *Ruſh-worth*, vol. III. p. 1051, *& ſeq.*

§ Coventry died with the following document in his mouth, or rather requeſt to the King: That he would take all diſtaſtes from the parliament with patience, and not end it with an unkind diſſolution.

with calling the judges together, and giving them a charge to promote, in their circuits, the ready chearful payment of ship-money; and had the imprudent presumption to declare, on a demurrer put in to a bill then before him, which had the authority of an order of the lords of the council, but no equity in it, "That whilst he was keeper, no man should be so saucy as to dispute those orders, but that the wisdom of that board should be always ground enough for him to make a decree in Chancery." Anno 1640. Clarendon, vol. I. p. 58.

The parliament was summoned to meet on the thirteenth of April. The pleasure this news gave to the lovers of Liberty baffles all description: "What, cried they in their mutual congratulations, are our tyrants at length unexpectedly driven into the necessity of calling a parliament, after their use has been so long and so successfully laid aside? and this when our hopes are grown languid; at a time when the remembrance of that august assembly, when the veneration its conduct so justly acquired, is grown faint on the minds of the vulgar?" The exultation of the public began to shew itself on several occasions: The presentment of the Northamptonshire jury against the illegality of ship-money; the spirited exertion of one Bagshaw, a lawyer, reader of the Middle-Temple, who argued against the lawfulness of the seat and jurisdiction of bishops in parliament *. Notwithstanding these favorable

* He argued on the statute of the twenty-fifth of Edw. III. and divided his matter into several parts, alloting a case for every day in which he was appointed to read. His arguments being reported to Laud, he was commanded not to proceed. He applied to Finch the lord-keeper, who sent him to Laud, telling him, it was good law, but he could not proceed without a licence. Laud told him, he had fallen on an unfit subject in an unseasonable time, which would stick

Anno 1640. omens, there was at this time too much leaven of prieſthood, and other flagrant prejudices in the nation, for the Puritans, the great oppoſers of the late tyrannical proceedings, to carry the majority of elections. On this important occaſion, therefore, many members were choſen who had too ſcrupulous a regard for what they called the dignity of the crown and church, to engage heartily with that party in correcting the abuſes and reforming the corruptions of either.

Parliament in Ireland.

Previous to the meeting of the Engliſh parliament, Strafford was ſent over into Ireland, with the title of lord-lieutenant, and the ornament of a blue ribbon, to gain from that eaſy credulous people a ſum of money ſufficient to execute the deſigns which had been concerted between him and his maſter. A parliament was accordingly called in that kingdom, which anſwered ſo well the hopes of the miniſtry, that they immediately granted four ſubſidies, expreſſed a violent zeal for the cauſe, drew up a declaration containing an acknowledgment of favors and benefits enjoyed under his majeſty's happy and gracious government, with a promiſe for a farther ſupply to the utmoſt of their abilities if the King's occaſions ſhould require it. This was not only entered in the Engliſh council-cauſes, and copies diſperſed abroad, but mentioned at the end of the King's declaration againſt the Scots, with an intimation that the ſubjects of England would do well to follow ſo good an example *.

Strafford's Letters, vol. II. p. 400, & ſeq.

Ruſhworth, vol. III. p. 1039.

by him as long as he lived. He was again commanded ſilence, on which he went out of town. Forty or fifty gentlemen of the inns of court, to do him honor, and ſhew their approbation of his intention to inſtruct his audience, attended him on horſeback. *Whitlock*, p. 31, *& ſeq.*

* Such was the ſubjection in which the Iriſh parliament was held by the lieutenant, that he procured the following clauſe

April the thirteenth, the parliament met.* Eager expectation took poſſeſſion of almoſt every Engliſh breaſt; nor were the Scots leſs free from this turbulent affection, ſeeing that their ſucceſs or ruin entirely depended on the reſolutions of this aſſembly. After a ſhort preface from the King, the lord-keeper Finch made a long ſpeech to both houſes; this performance out-did his uſual bombaſt: He began with highly extolling his maſter's condeſcenſion in calling a parliament. "His majeſty's kingly reſolutions, ſaid he, are ſeated in the ark of his ſacred breaſt; and it were a preſumption of too high a nature for any Uzziah, uncalled, to touch it: Yet his majeſty is pleaſed to lay by the ſhining beams of majeſty, as Phœbus did to Phaeton, that the diſtance between ſovereignty and ſubjection ſhould not bar you of that filial freedom of acceſs to his perſon and counſels; only let us beware how, with the ſon of Clymene, we aim not at the guiding the chariot, as if that were the only teſtimony of fa-

Anno 1640. Parliament of England.

Parl. Hiſt. vol. VIII. p. 397, & ſeq.

Finch's ſpeech.

clauſe to be inſerted in their declaration: "And particularly in placing over us ſo juſt, wiſe, and vigilant a governor as, &c. who by his great care and travail of body and mind, ſincere and upright adminiſtration of juſtice without partiality, &c." Wentworth having obtained this clauſe to be thruſt into the declaration of the Iriſh parliament, boaſted much of his intereſt in that kingdom. "I have left, wrote he in a letter to ſecretary Windebank, the Iriſh people as fully ſatisfied as can poſſibly be wiſhed for, notwithſtanding the philoſophy of ſome among you in the court, who muſt needs have it believed, that people are infinitely diſtaſted with the preſent government, and hating of me; which error I can eaſily remit unto them, conſidering that thereby the truth will be more clearly underſtood unto all, and in concluſion the ſhame fall unto themſelves." *Carte's Life of Ormond*, vol. I. p. 95. *Strafford's Letters*, vol. II. p. 403.

* Wren biſhop of Ely, one of the moſt obnoxious prelates in the kingdom, preached before the King on this occaſion at Weſtminſter. *Nalſon*, vol. I. p. 306.

Anno 1640. therly affection. But let us ever remember, that though the King ſometimes lays by the beams and rays of majeſty, he never lays by majeſty itſelf." After this introduction, Finch expatiated on the King's goodneſs in eaſing the parliament of the trouble of giving advice concerning the buſineſs of the nation, and the having for twelve years taken that burthen on himſelf. He then proceeded to invectives againſt the Scots, who, he ſaid, deſigned to introduce an army of foreigners into their country, ſo that there was an abſolute neceſſity to make preparations for the defence of England. He gave an account of the zeal the Iriſh parliament had expreſſed for the King's ſervice, ran out in a high-flown panegyric on the King and his government, on the queen, and the reſt of the royal family: He introduced the old topic of tonnage and poundage, which he ſaid the King would graciouſly accept as a gift from the parliament; and ended with an exhortation to the Commons to grant a liberal ſupply. After this empty harangue, Charles produced the letter which had been ſent by the covenanters to the French king, and informed the houſe, that he had ſent the lord Loudon and Mr. Colvil priſoners to the Tower *. Finch had told both houſes, that in the diſpute between the King and the Scots, his majeſty would not admit any one to interpoſe an office of mediation.

* Finch endeavored to aggravate this imputed crime by inſiſting much on the trifling circumſtance of the ſuperſcription of the letter; a ſtyle, he ſaid, never written by any Frenchman but to their king. However, the ſuperſcription was denied by the parties concerned, who aſſerted, that it was added, with a view of blackening them, after their enemies had gotten poſſeſſion of the letter. *Parl. Hiſt.* vol. VIII. p. 406.

The Commons chose serjeant Glanville for their speaker *, a man of some abilities, and at this time not very displeasing to any party in either house. In his speech to the throne he expatiated on the excellence of monarchy royal and hereditary, and bestowed great encomiums on the King's government, on his piety, and his other personal virtues. After this incense, he entered on the subject of the prerogative, which, he said, could do no hurt, provided it admitted the temperament of law and justice. He explained what he called the highest prerogative, "The King can do no wrong," a maxim in law which had ever been so absurdly and infamously misrepresented by crown-lawyers. Every unjust command, said he, is made void by this privilege; and therefore, though the King in his person is innocent, the actors of those abuses stand liable and exposed to strict examination and just censure. He then insinuated the necessity of enacting plain statutes, that the subject might be enabled to understand what is expected of him, and what he may call his own. "Were we never so valiant, concluded he, never so wealthy, if love and unity be not among us, what good will our wealth do to ourselves or to your majesty? he who commands a heart in love, he and he only commands assuredly the purse to pay, and the hands to fight." Anno 1640. Serjeant Glanville's speech.

* The person who brought the speaker-elect the message to attend the King in the upper house was of no better condition than a quarter-waiter: The necessary ceremony on this occasion was neglected last parliament, and noticed by that assembly as an affront to the house. Glanville commanded the waiter to tell Maxwell, the gentleman-usher of the house of Lords, that it was his duty to have come and brought the message himself. *Journals of the Commons*, vol. II. p. 3.

The

Anno 1640. The Commons, according to the cuſtom of ſeveral parliaments, previous to their entering on matters of importance, conferred with the Lords concerning the petitioning the King for a faſt, with the uſual buſineſs of ſettling elections, and determining matters of privilege *. The firſt days of the ſeſſion were ſpent in reading petitions poured in by ſeveral counties in England againſt ſhip-money, projects, monopolies, the tranſactions of the Star-chamber, the High-commiſſion court, and other grievances. The King, who imagined the Commons would be in a flame on the ſubject of the letter which was written to the French king †, ſent them a meſſage by ſecretary Windebank, enlarging on the affronts and indignities the Scots had, by ſuch an appeal to a foreign prince put on their ſovereign. The Commons were at this time ſo taken up with their own grievances, that they took no notice of what had fallen from ſecretary Windebank. The debate on the national oppreſſions was opened by Harbottle Grimſtone, member for Eſſex: "The buſineſs which had been recommended to their conſideration by his majeſty, he ſaid, was a weighty buſineſs, and very worthy the adviſement of that great council; but there was a caſe at home of as great a conſequence, and ſo much the more dangerous, becauſe it was home-bred, and ran in the very veins of the body politic: That caſe was the violation of Magna Charta; itſelf but a renovation and reſtitution of the an-

* It was this ſeſſion determined, that every member ſhould have privilege for ſixteen days before the beginning, and ſixteen after the ending, of parliament. *Journals of the Commons*, vol. II. p. 10.

† The Lords had been ſo complaiſant as to vote, that the lord Loudon ſhould be detained a priſoner in the Tower till farther evidence ſhould appear in this affair. *Whitlock*, p. 32.

tient

tient laws of the kingdom; a charter which had been confirmed above thirty times, and in his preſent majeſty's reign more than confirmed by an act declaratory, inveſted with the title of Petition of Right. What expoſitions, added he, contrary to that Law of Right, have ſome men given, to the undermining the Liberty of the ſubject, with new-invented, ſubtle diſtinctions? aſſuming to themſelves a power to make void the laws of the kingdom. The commonwealth hath been maſſacred, all property and liberty ſhaken, the church diſtracted, the goſpel and profeſſors of it perſecuted, and the whole nation over-run with ſwarms of projecting canker-worms and caterpillars, the worſt of all the Egyptian plagues. As the caſe ſtands, I conceive there are two points very conſiderable in it: the firſt, what hath been done any way to impeach the liberties of the ſubject, contrary to the Petition of Right; the ſecond, who have been the authors and cauſers of it." Anno 1640.

The next who ſpoke after Mr. Grimſtone was Sir Benjamin Rudyard, an honeſt, plain, well-meaning country-gentleman, a man of good ſenſe, but neither of depth of underſtanding, or knowledge enough in the ways of men, to cope with the vicious politics of a court. He lamented the heavy grievances the nation had ſuſtained in the intermiſſion of parliaments; he aſſerted, that if parliaments were gone all was gone; and pathetically recommended to the houſe, to ingratiate themſelves by their carriage, that the race of parliaments might not be rooted out. The laſt member who ſpoke in this important debate was Mr. Pym, a man in the prime of his age, but old in the ſervice of parliaments; much noted for his abilities, but yet of greater weight with his party

Anno 1640. party from the ſteady uncorrupted uniformity of his conduct in the important office of a ſenator; to the reputation he had acquired in this particular was united a life moral and pious, a religion totally free of the prevailing corruptions of the times: this procured him the reſpect of all the good and moderate men in the kingdom, and from his reputed knowledge in theology, the houſe had ever appointed him the manager of all the buſineſs which concerned religion. This excellent patriot, in a diſcourſe which held above two hours, but in which there was no word without its weight, enumerated all the oppreſſions of the times *.

Pym never harangued in vain: the houſe came to a reſolution, and ordered, that the records and proceedings in the Star-chamber and King's Bench, concerning ſeveral members of the houſe in the laſt parliament, ſhould be ſent for immedi-

* When Mr. Pym mentioned the long intermiſſion of parliaments, he told the houſe, that by two ſtatutes, not yet repealed, a parliament ought to be held once a-year. On the ſubject of impoſition, he obſerved, that impoſitions were not only multiplied upon merchants goods which were exported out of, and imported into, the kingdom, but that there was a growing miſchief in plotting for the impoſition of goods not of the produce of England, nor ever brought into it, but which were conveyed from one foreign country to another by Engliſh merchants, a courſe never before heard of. In treating of the grievances of ſhip-money, he aſſerted, that though there was a judgment given for it, it was againſt all former precedents and laws; it was a grievance which had no limits either for time or proportion; and whoever endeavored to defend it muſt be ſenſible that both his reputation and conſcience lay at ſtake in the defence. In expatiating on the ſervile doctrine at this time preached by the clergy, he ſaid, that Dr. Manwaring had for that fault been brought upon his knees the laſt parliament: "He did not think, that, being brought ſo low, he would have leaped ſo ſoon into a biſhopric." *Parl. Hiſt.* vol. VIII. p. 432, & *ſeq.*

ately;

ately; that a ſelect committee be appointed to meet to report their opinion to the houſe touching the violation of the privilege of parliament, the laſt day of the laſt parliaments; that the records, enrolments, judgments, and proceedings in the Exchequer, and all courts whatſoever, concerning ſhip-money *, ſhould be ſent for. Anno 1640.

On the queſtion concerning the behavior of the ſpeaker, the houſe reſolved, that the ſpeaker's refuſing to put the queſtion, after a verbal command from his majeſty, ſignified by the ſpeaker to the houſe, to adjourn, and no adjournment made by the houſe, is a breach of the privilege of the houſe. Though the Commons had ſat but a few days, yet as they had taken little notice of the buſineſs recommended to them by the lord-keeper, Charles grew impatient, and ordered both houſes to attend him at Whitehall. Finch, the perſon whom they had juſt cenſured as the violator of their liberties, by the King's directions, acquainted them, that the army was now upon its march; that it coſt an hundred thouſand pounds *per* month; and that without an immediate ſupply the honor of their prince and nation would be loſt. He attempted to palliate the tax of ſhip-money, as neceſſary to maintain the reputation of the Britiſh flag, and made a ridiculous diſtinction on the objection that ton- MS. Journ. of the Lords.

* In the courſe of the debate concerning grievances, one Peard a lawyer, with ſome warmth of expreſſion, called ſhip-money an abomination. He was reprimanded by Herbert the queen's ſolicitor, whoſe reprehenſion, as Clarendon aſſerts, was thought to have ſo much weight in it, that Mr. Peard very hardly eſcaped a ſevere reprimand; "which I mention, adds this pompous courtier, that the temper and ſobriety of that houſe may be taken notice of, and their diſſolution, which ſhortly after fell out, the more lamented." *Clarendon*, vol. I. p. 105, *& ſeq.*

nage

Anno 1640. nage and poundage were uſed to be given for the maintenance of a fleet at ſea. "It was a tax never intended, he ſaid, but for ordinary preſervation of the ſea, not for extraordinary." He next ſet before the Commons the example of the two laſt Iriſh parliaments, and boaſted what great advantages they had gained by their dutiful behavior. To crown the whole of this extraordinary harangue, he told the houſes, that his majeſty could not this year forbear to levy ſhip-money, but expected their concurrence in the raiſing it for the future. He concluded with magnificent promiſes, in the King's name, to give them ſatisfaction in point of ſecurity for their liberties, provided they would firſt ſatisfy him in the matter of ſupply.

The Commons reſerved the conſideration of this ſpeech to the next day, when Edmund Waller, a young man of a good eſtate and promiſing parts, in a very ſenſible manner, anſwered the arguments which had been urged by the keeper, and that in a ſtrain of eloquence which procured him the attention and applauſe of the whole aſſembly. The purport of his ſpeech was to perſuade the houſe to inſiſt on the redreſs of grievances before they gave a ſupply: This, he ſaid, was the cuſtom of all parliaments, and now particularly requiſite; he acknowledged that his majeſty's occaſions for money were evident, for the calling of a parliament was an effect which no light cauſe could have produced; he cenſured the conduct of the clergy in a very ſhrewd manner: "I am ſorry theſe men, ſaid he, take no more care to gain our belief of thoſe things which they tell us for our ſoul's health, while we know them ſo manifeſtly in the wrong in that which concerns the liberties and privileges of the ſubjects of

England: But they gain preferment, and then it is no matter though they neither believe themſelves, or are believed by others. Yet ſince they are ſo ready to let looſe the conſcience of the King, we ought the more carefully to provide for our protection againſt this pulpit-law, by reinforcing the municipal laws of the kingdom. It is worthy the obſerving how new this opinion, or rather this way of riſing, is, even among themſelves. Mr. Hooker, who was no refractory man (as they term it) thinks, that the firſt government was arbitrary, till it was found that to live by one man's will became all mens miſery; and if we look farther, our hiſtories will tell us that the prelates of this kingdom have often been mediators between the King and his ſubjects, to pray redreſs of their grievances. They then had love and reverence from the people." Anno 1640.

Mr. Waller's motion, that the redreſs of grievances ſhould precede the ſupply, was aſſented to by the houſe, and it was ordered that the lords ſhould be conſulted on this ſubject. Matter was prepared for the conference, and the grievances divided into three claſſes, according to the order of Mr. Pym had uſed in his ſpeech: Firſt, concerning innovations in matters of religion; ſecondly, property of goods; thirdly, liberties and privileges of parliament *. Charles, hearing what was going forward in the lower houſe, went to the Lords in a great rage; told them, that the Commons had put the cart before the horſe; that inſtead of performing his occaſions, Journals of Commons, vol. II. p. 11.

* Mr. Pym was appointed for the firſt claſs, and to make the introduction to the whole buſineſs; Mr. St. John for the ſecond; and Mr. Holbourne for the third. *Parl. Hiſt.* vol. VIII. p. 456.

Anno 1640. caſions, they had held conſultations of innovations in religion, property of goods, and privileges of parliament; that as for religion, his heart and conſcience was with the religion now eſtabliſhed in the church of England *; that if the houſe of Commons would but truſt him, he would make good what he promiſed by the lord-keeper †. "I conjure your lordſhips, added he, conſider your own honor, and the prepoſterous courſe of the Commons; and deſire that your lordſhips will not join with them, but leave them to themſelves. I deſire you to be careful in this point; elſe, if the ſupply come not in time, I will not ſay what miſchief may and muſt follow."

The Lords, confiding on the large promiſes made by the King, or overcome by his importunity, or depending on the ſuperior virtue of the houſe of Commons, determined to put the taſk of a refuſal on them: they voted that the ſupply ſhould have precedency, and be reſolved upon before any other matter whatſoever; and that there ſhould be a conference with the houſe of Commons, in order to diſpoſe them thereto ‡. The King ſent to thank the Lords for this reſo-

MS. Journ. of the Lords.

* The fopperies of Laud's religion, which Charles had eſtabliſhed in the church, were one of the prime grievances which the Commons complained of.

† By what may be gathered from the hints which fell from the King and the lord-keeper, the graces Charles was to grant to his people, after the obtaining a ſupply, were, that if the commons would grant him the tax of ſhip-money, with tonnage and poundage, he would accept them as a gift, and not raiſe them by virtue of prerogative.

‡ One Edward Bradſhaw, for ſelling falſe protections, was by the Lords committed to the Fleet, ſentenced to ſtand in the pillory at two places, fined one hundred pounds, and ſent to the houſe of correction till he found ſureties for his good behavior; as he was a gentleman born, they remitted the puniſhment of whipping. *MS. Journal of the Lords*, vol. I.

lution,

lution, and to assure them, that nothing was more agreeable to him than to have a good understanding with their lordships. Their advice on this subject was no sooner reported to the Commons, than that temper, or rather lukewarmness, which had hitherto appeared to have infected their counsels, entirely vanished; they grew warm, and with unanimous consent voted it to be so high a breach of privilege, that they could not proceed upon any other matter until they had first received satisfaction from the upper house. Anno 1640.

The next day Mr. Pym, in the name of the Commons, gave the Lords to understand, that it was not their province to meddle with the matter of supply till it should be moved to them by the Commons; that if they had taken any notice of orders in their house concerning religion, property, and privileges, that these were to precede a supply, that then they would freely join with the Commons in those things; but, for the future, they desired them to take no notice of what should be debated in their house till themselves should declare it to their lordships *. The Lords seemed at first determined to resent the free expostulations of the Commons, but at length became sensible of their error, and acknowledged the privileges of the Commons in this point, withal entreating them not to let the difference be an occasion of wasting time; but that they would proceed in their own way on the weighty affairs of the kingdom †. The manner

* In this dispute the Commons insisted, that the money-bills, after they had passed their house, and were consented to by the Lords, ought to be re-delivered, and by their speaker presented to the King, as their free gift and donation. *Parl. Hist.* vol. VIII. p. 462.

† The Lords began the session with a very different spirit from what they shewed in the important point of supply. They

Anno 1640. Clarendon. vol. 1. p. 106, & ſeq.

in which this acknowledgment was made being not full enough, or in other particulars not pleaſing to the Commons, they were preparing a proteſtation to be ſent up to the houſe of Peers, and to be entered in their own Journal, when they received, by Sir Henry Vane (ſecretary of ſtate and treaſurer of the houſhold) a meſſage from the King, importing, that he had by divers ways acquainted the houſe with his urgent neceſſity for a ſupply, and had hitherto received no anſwer; he did again deſire them to give him a preſent anſwer concerning this buſineſs *. After a long debate on this meſſage, the houſe came to no other reſolution than that the debate ſhould be reſumed on Monday in the next week, and de-

Saturday, 2 May.

They objected to Manwaring biſhop of St. David's ſitting among them; read over the declaration of the Commons, and their own ſentence againſt him, and put that buſineſs into the hands of a committee; when the King ſent to aſſure them, that he had given command that Manwaring ſhould not ſit in parliament, nor ſend a proxy. The earl of Middleſex petitioned them for leave to take his ſeat among them; this the houſe did not this ſeſſion determine in his favor, though the King had ſent him a writ of ſummons. Theſe ſpirited proceedings were puſhed on by the popular party in the houſe; but when affairs began to grow to a criſis, and the miniſtry found it neceſſary to make uſe of threats and promiſes, thoſe peers who were by fortune and inclination entirely independent of the court, found themſelves too inconſiderable a body to make any oppoſition to that undue influence which prevailed in the upper houſe. *MS. Journals of the Lords*, vol. I.

* Clarendon tells us, that in one of the King's meſſages to the Commons he took notice of what had paſſed in their houſe concerning ſhip-money, and concerning the difference which ſubſiſted between them and the Lords; a circumſtance which, this author admits, might have given room for exceptions in point of privilege, the King not being allowed, by the cuſtom of parliament, to obſerve on what paſſes in either houſe till the ſame ſhould be declared by themſelves in due form.

fired

fired that his majeſty might be acquainted with their determination. On the day appointed for farther debate, they received another meſſage, to the following purport: That his majeſty, the better to facilitate their reſolutions, thought fit to let them know, that of his grace and favor he was pleaſed, upon their granting twelve ſubſidies, to be preſently paſſed, and to be paid in three years, with a proviſo that it ſhould not determine the ſeſſion, not only for the preſent to forbear the farther levying of ſhip-money, but would alſo give way to the utter aboliſhing it by any courſe which themſelves ſhould like beſt; and for their grievances, his majeſty would, according to his royal promiſe, give them as much time as could be now and the next Michaelmas: He expected a preſent and poſitive anſwer, upon which he might rely, his affairs being in ſuch a condition as could endure no longer delay. It is affirmed by Clarendon, who was at this time a member of the lower houſe, that the majority of the Commons ſeemed greatly diſpoſed to grant a ſupply, though not in the ſame proportion or manner as was dictated in the King's meſſage*. Many obſerved, that to purchaſe the releaſe of the impoſition of ſhip-money would be acknowledging a right in the crown to exact it; they wiſhed that matter might be examined and declared void, and then what they preſented to the the King would appear a gift, not a recompence. Every other member in the houſe but thoſe who were ſupported by the court, excepted againſt the largeneſs of the demanded ſum †.

Anno 1640.

Parl. Hiſt. vol. VIII. p. 467.

* This attempt to engage the parliament to buy off a tax the King had no right to impoſe, had ſucceeded in Ireland.

† Some men, who were thought to underſtand the ſtate of the nation, affirmed in the houſe, that the amount of twelve

Anno 1640. The aſſembly being greatly agitated by theſe two objections, they adjourned the debate till next day *, when Mr. Hamden, whoſe patriotic exertions in the caſe of ſhip-money, had obtained him an almoſt-univerſal popularity, obſerving the temper of the houſe, very judiciouſly put a queſtion which would meet with both the objections which had been made to the King's meſſage: Whether the houſe would conſent to the propoſition made by the King, as it was contained in the meſſage? Hamden's queſtion was called for by many; when Serjeant Glanville, the ſpeaker, who at this time had ſome dependence on the courtiers †, earneſtly preſſed the houſe to

ſubſidies was a greater ſum than could be found in all England; "Such was the happy ignorance and inexperience of thoſe times, ſays Mr. Hume, in regard to taxes." *Hume's Hiſt.* vol. I. p. 241.

* Theſe were the objections publicly declared; the private diſcourſe in the houſe was in a different ſtrain. The King, they ſaid, preſſed the neceſſity of a ſpeedy ſupply; yet if the meeting of the parliament had not purpoſely been delayed till ſo near the commencement of military operations, there had been leiſure ſufficient to have redreſſed all national grievances. Others plainly ſaid, that the King demanded ſupplies to carry on a civil war; that the authors of thoſe grievances of which the Scots complained, and which had driven them into ſuch deſperate courſes, were the cauſers of the grievances under which the Engliſh nation had long groaned; and the cutting off thoſe incendiaries would be the only ſafe, eaſy, and honorable cure; that what the Scots had done for the recovery of their Liberty ought not to be deemed illegal; that nothing could be more unjuſt than to ſubdue them to ſlavery by Engliſh forces, and would terminate in ſupporting that unlimited power which was ſet up in England. *Hume*, vol. I. p. 241. *May's Hiſt. of the Parliament of England*, ed. 1647, p. 60. *Acherley's Britannic Conſtitution*, ed. 1727, p. 396.

† Glanville had been a great oppoſer of the illegalities of the adminiſtration; but Whitlock tells us, he had engaged to be a good ſervant to the King this parliament. *Whitlock*, p. 37.

comply with the King's requeſt. He endeavored to prevail with thoſe who thought the proportion too large, by ſpecifying the ſmall ſum which he himſelf ſhould pay towards this tax out of a large eſtate which he poſſeſſed. In the warmth of his diſcourſe, he could not help flinging out ſome ſevere expreſſions againſt ſhip-money; which notwithſtanding the zeal he had ſhewn for gratifying the King, according to Clarendon, ſhook his intereſt at court. Glanville's ſpeech having made ſome impreſſion on the houſe, Mr. Hyde, a lawyer, who was afterwards created earl of Clarendon, and who at this time was eagerly looking towards preferment, being intimate with Laud, and a favorite of that prelate on account of his high-church principles *, objected to the queſtion put by Hamden, as a captious one, and propoſed that it might be only put, "Whether they ſhould give the King a ſupply or not?" If that was carried in the affirmative, another queſtion might be put on the proportion and the manner. Whilſt the houſe was divided between the different queſtions propoſed by Mr. Hyde and Mr. Hamden, ſome calling for one, ſome for the other, Sir Henry Vane ſtood up, and ſaid, "He could aſſure the houſe, that the putting and carrying Mr. Hyde's queſtion could be of no uſe, for that he had authority to tell Anno 1640.

* He performed ſome ſervices for the archbiſhop in the buſineſs of raiſing money towards the building of St. Paul's. He tells us, in the Hiſtory of his own Life, that Laud's patronage procured him the countenance of all the judges at Weſtminſter-Hall; and in another place of this work, that the favor of the archbiſhop of Canterbury, the lord Coventry, the lord-privy-ſeal, the lord-chamberlain, the lord Holland, and other perſons of intereſt in the court, made people think he would make what progreſs he deſired in his profeſſion. *Life of Clarendon*, ed. 1761, vol. I. p. 27. 68, *& ſeq.*

Anno 1640. them the King would accept of nothing which was not in the proportion and manner contained in his meſſage." Upon this the houſe aroſe. The King being told, that if they came together again, they would not only endeavor to aboliſh ſhip-money, and other illegal branches of the revenue, but declare a diſapprobation of the intended war againſt the Scots, haſtily determined to diſſolve them: this he did the next morning *.

Diſſolution of the parliament, 5 May.

After many gracious expreſſions to the Lords on the complaiſant part they had acted this ſeſſion, he told them, That the Commons had inſiſted much on grievances; that there might be ſome, but he could confidently affirm that there were not by many degrees ſo many as the public voice did make; that out of parliament he ſhould be as ready, if not more willing, to hear any juſt grievance, as in parliament. "There is one thing, added he, much ſpoken of; I mean as to matters of religion; concerning which, albeit I expreſſed myſelf fully the laſt day in this place, yet I think it fit again to tell you, that as I am concerned, ſo I ſhall be moſt careful to preſerve that purity of religion which, I thank God, is ſo well eſtabliſhed in the church of England; and that as well out of as in parliament. I will end as I have began, in giving your lordſhips thanks for the care you have of my honor and affairs, deſiring you to go on, and aſſiſt me in the maintaining of my government, and the liberties of my people, which they now ſo much ſtartle at: For, my lords, no King in the world ſhall be

* Such was the King's fear that the Commons would proceed to ſome ſanguinary declaration, that he ſent for the ſpeaker in the morning before the houſe met, and would not ſuffer him to go out of his ſight till after he had diſſolved them.

more careful to maintain the property of their goods, the liberties of their persons, and the true religion, than I shall be." Anno 1640.

It must be owned, that this speech carries with it strong marks of that obstinacy of opinion which is so glaring in the character of Charles, at the same time when it fully shews that false light in which he viewed all the illegal measures he had pursued; a delusion which must ever have prevented him from correcting the errors of his government. He was certainly sincere when he declared himself ready to redress any just grievances out of parliament; because he did not reckon impositions, or the enlarged power of the arbitrary courts, under the denomination of just grievances. He spoke with truth when he said he should be careful to preserve the purity of the church of England; for he thought that consisted in the power and grandeur of the prelates, and in those innovations which had with such severity been imposed by Laud. It was in this view of things he so often promised, by the lord-keeper, that if the Commons would grant him a supply he would not be deaf to their reasonable demands; but certainly those reasonable demands would have been reduced to such a trifling, equivocal class of grievances, that the ministry might have parted with them on much easier terms than a supply sufficient to reduce the Northern dominions to the desired state of slavery. It would have been the utmost folly in the Commons to have put out of their hands the only weapon with which they were armed to defend themselves and the constitution against the venom of those arbitrary principles which had visibly taken deep root in the King and his council; yet, according to Clarendon's account, the King had the majority of

Anno 1640. this parliament in his favor, and the partizans of Liberty were obliged to have recourſe to art to prevent a good underſtanding from ſubſiſting between the court and the houſe of Commons.

The heads of the popular party being ſenſible that all was at ſtake, and having perhaps entered into deep communication with the Scotch covenanters, like men who had every thing to loſe, were anxious for the ſucceſs of the event, though the odds were viſibly in their favor. It is alſo reaſonable to believe, that they exerted all their abilities to bring on concluſions which would diſappoint the hopes of their enemies; and that they rejoiced in the diſſolution of an aſſembly which did not appear properly affected with the preſent ſituation of affairs, or properly warmed againſt the ſpoilers of public Liberty *. But can it be imagined, that an Engliſh houſe of Commons, who all this reign, and the greateſt part of the preceding one, had ſo vigorouſly defended their own peculiar privileges, and the liberties of their country, had ſo magnanimouſly and reſolutely withſtood both the threats and entreaties of the court, and ſtrenuouſly maintained that conſtitutional maxim, "No redreſs of grievances,

* Clarendon relates, that within an hour after the diſſolution of the parliament, he met Mr. St. John, that eminent lawyer who had pleaded ſo ably for Mr. Hamden in the caſe of ſhip-money; that though Mr. St. John had naturally a cloudy aſpect, he then wore a moſt chearful one, and perceiving that Mr. Hyde was melancholy, he aſked what troubled him? Hyde replied, the ſame which troubled him, he believed, troubled moſt good men; that in ſuch a time of confuſion, ſo wiſe a parliament, which alone could have found remedy for it, was ſo unſeaſonably diſmiſſed. Mr. St. John anſwered with ſome warmth, that all was well; that things muſt be worſe before they could be better; that parliament could never have done what was neceſſary to be done. *Clar. Hiſt.* vol. I. p. 110, & *ſeq.*

no

no money:" Can it be imagined, that, after they had declared their liberties violated in the moſt eſſential point, by the tranſactions immediately preceding the diſſolution of the laſt parliament, and by the ſucceeding impriſonment of their members, after an almoſt twelve years intermiſſion of parliaments, at a period when deſigns were manifeſtly formed for the entire ſuppreſſing the liberties of the nation: Can it be imagined, I ſay, that they would ſo baſely degenerate from the virtue of preceding aſſemblies, as to become dupes to the very men who had been the moſt criminally inſtrumental in altering the nature of the government, and rivet their own fetters by impoſing chains on the Scots? Anno 1640.

The temper with which the counſels of this parliament had been conducted, is no well-grounded aſſurance of its flexibility in this point, ſince other parliaments which have began with great moderation have ended with rigor. The King, on being aſſured the Commons were on the point of granting him a ſupply, immediately repented a meaſure which he had been hurried into by the fury of the queen and archbiſhop Laud *, as well

* Clarendon tells us, that on his hearing ſome diſcourſe among the courtiers as if the King would diſſolve the parliament, he went over to Lambeth to his friend the archbiſhop, and earneſtly perſuaded him to uſe his influence with the King to prevent the diſſolution of a parliament, as well conſtituted and diſpoſed towards the preſent government in church and ſtate, as ever houſe of Commons was or would be; that the number of the diſaffected was very ſmall; and though they might obſtruct for ſome time the quick reſolving of what was fit, they would never be able to pervert their good inclinations and deſires to ſerve the King. This aſſurance of the diſpoſition of the houſe had no effect on the archbiſhop, who peeviſhly anſwered Mr. Hyde, "that he had not ſo good an opinion of the affection of the houſe as to perſuade their longer

Anno 1640. as by the intemperateneſs of his own diſpoſition, and the artful inſinuations of thoſe of his attendants † who wiſhed well to the popular cauſe.

Sir Henry Vane did not eſcape cenſure on this occaſion: he has been accuſed of demanding twelve ſubſidies; and afterwards, without proper authority, aſſerting to the houſe, that the King would not accept of leſs. This ſtateſman had been long at enmity with the earl of Strafford, who had lately highly offended him by inſiſting on being created baron of Raby, a houſe then belonging to Sir Henry Vane. It is ſuppoſed, therefore, that he was induced to act this politic part in order to diſſolve a parliament whoſe conduct did not promiſe vigor enough to bring to juſtice the culprits of the ſtate, among whom Strafford ſtood the foremoſt in almoſt every man's opinion. Though private enmity, and other mean paſſions, are too often the motives which induce men to actions leading to public utility, yet from ſeveral circumſtances it is probable, that this charge againſt Sir Henry Vane was without foundation, and proceeded entirely from the rancor of a diſappointed faction; ſince, as it is obſerved by a very judicious hiſtorian now living, that meſſages of conſequence are always delivered to the houſe in writing, after they have been thoroughly debated in the cabinet. When Vane aſſured the Commons, that leſs than twelve ſubſidies would not be accepted, he was ſeconded by Herbet the queen's ſolicitor, whoſe behavior, through the whole ſeſſion, had ſhewn him a very

Guthrie, vol. III. p. 977.

Clarendon, vol. I. p. 109.

longer ſitting if the King was inclined to diſſolve them." *Clarendon's Life*, vol. I. p. 74, *& ſeq.*

† It is ſaid that Hamilton, who about this time obtained the releaſe of Loudon, out of tender regard to his country, promoted the diſſolution of the parliament.

officious

officious tool to the court. Add to this, the privy-counſellors were all preſent, and not one of them oppoſed or contradicted what had been advanced by the ſecretary. It is to be imagined, that Vane, and many others of the King's ſervants who wiſhed to ſee revive in their country the almoſt-extinguiſhed fire of Liberty, were far from exerting themſelves to effect a good underſtanding between the King and Commons; but that he ſhould not have authority to juſtify him in what he ſo confidently aſſerted is difficult to believe, ſince his enemy Strafford, a man of a moſt implacable diſpoſition, would not have miſſed ſuch an opportunity to have obtained his immediate diſmiſſion from the King's ſervice *. Anno 1640.

Charles attempted to apologize, in a declaration to the public, for this fourth premature diſſolution: As uſual, he laid the blame of what had happened on a few ſeditious perſons in the lower houſe of parliament, which aſſembly, he ſaid, he had called together, hoping that time and experience had made his loving ſubjects ſenſible of the diſtemper the whole kingdom was like to have been put into by the ill-governed actions of thoſe men. The declaration ends with an invitation to the ſubjects who had any juſt cauſe of grievances to addreſs themſelves by hum- Ruſhworth, vol. III. p. 1160, & ſeq.

* The King, when he began to reflect on the ſituation of his affairs after the diſſolution of the parliament, blamed Sir Henry Vane, and ſaid, that he knew well the reputation of his ſubjects aſſiſting him in that conjuncture was all which he deſired. This is no contradiction to Sir Henry Vane's having a proper authority for what he aſſerted in the houſe; ſince it might have been reſolved in the cabinet, that leſs than twelve ſubſidies would not ſupply the neceſſity of affairs, or be a fit recompence for the abolition of ſhip-money; and Sir Henry Vane might juſtify himſelf on that reſolution. *Clar.* vol. I. p. 111.

ble

Anno 1640. ble petitions to his ſacred majeſty, who would give ſuch fitting redreſs that his people ſhould have juſt cauſe to acknowledge that no perſons or aſſemblies could more prevail with his majeſty than the piety and juſtice of his own royal nature, and the tender affection he did and ever ſhould bear to all his people.

This declaration, intended to conciliate the affections of the public, is written in the ſtyle of an Eaſtern ſovereign. The King's pretenſions to be the ſole judge and the ſole redreſſer of grievances is, perhaps, as great an inſult as ever was put on a free people, who had claim to any kind of legiſlative capacity, or to any protection from the authority of their laws. Charles, in declaiming on the ill conduct, as he termed it, of the parliament, fully expoſed the unconſtitutional notions he had conceived of the nature of that aſſembly, and his groſs ignorance of the many inſtances in the annals of the Engliſh monarchy in which they had exerted very ample authority, remonſtrated with their princes in the freeſt manner, and refuſed ſupplies when thoſe remonſtrances were not properly regarded. "Whereas, ſaid he, theſe meetings and aſſemblies of his majeſty with the Peers and Commons of this realm were, in their firſt original, and in the practice of all ſucceeding ages, ordained and held as teſtimonies of affection between the King and his people; the King, for his part, graciouſly hearing and redreſſing ſuch grievances as his people in humble and dutiful manner ſhould repreſent unto him; and the ſubjects, on their part, as teſtimonies of their duty, ſupplying his majeſty upon all extraordinary occaſions, for ſupport of his honor and ſovereignty, and for preſerving the kingdom in glory and ſafety: Thoſe ill-affected

members

members of the houſe of Commons, inſtead of an humble and dutiful way of preſenting their grievances to his majeſty, have taken upon them to be the guides and directors in all matters which concern his majeſty's government, both temporal and eccleſiaſtical; and, as if Kings were bound to give an account of their regal actions, and of their manner of government, to their ſubjects aſſembled in parliament, they have, in a very audacious and inſolent way, entered into examination, and, cenſuring the preſent government, traduced his majeſty's adminiſtration of juſtice, and, as much as in them lay, rendered odious to the reſt of his majeſty's ſubjects not only the officers and miniſters of ſtate, but even his majeſty's government itſelf; which hath been ſo juſt and gracious, that never did this or any other nation enjoy more bleſſings and happineſs than hath been by all his majeſty's ſubjects enjoyed ever ſince his majeſty's acceſs to the crown *." Anno 1640.

Had the people of England been ever ſo ignorant of their rights and privileges, had they been ever ſo much inclined to take the King's word for the ſuperlative nature of his royal power, yet fair promiſes without actions would not have been a remedy for that general diſſatisfaction which blazed out on the diſſolution of the parliament; a meaſure which convinced the public, that the redreſs of their ſufferings depended entirely on their own vigor and reſolute oppoſition to the malice and power of their governors.

* The exordium to this declaration is as follows: "The King's moſt excellent majeſty well knoweth that the calling, adjourning, proroguing, and diſſolving of parliaments, are undoubted prerogatives, inſeparably annexed to his imperial crown, of which he is not bound to render any account, but to God alone, no more than for his other regal actions." *Ruſhworth*, vol. III. p. 1160, *& ſeq.*

The

Anno 1640. Acts of power.

The very day after the diſſolution of the parliament, the houſes and perſons of the lords Warwick and Brook were ſearched for papers. Henry Bellaſis, knight of the ſhire for the county of York *, and Sir John Hotham, were called before the council, and not making ſatisfactory anſwers to interrogations concerning paſſages in the late parliament, were committed to the Fleet. John Crew, Eſq. was ſent cloſe priſoner to the Tower, for refuſing to deliver up the papers which came into his hands whilſt chairman for the committee of religion, and thus ſcreening from diſcovery the names of ſubſcribers to petitions which complained of innovations in religion, and the proceedings of the High-commiſſion court †. Contrary to the almoſt-unvaried cuſtom of the eccleſiaſtical aſſemblies, which ever broke up with the parliament ‡, the convocation continued to ſit: They not only exerted a very dangerous independency by granting, without the ſanction of parliament, a benevolence to the King of four ſhillings in the pound for ſix years; made canons §

Convocation continues to ſit.

* The ſame whom Wentworth had formally proſecuted for not making him a bow.

† He was committed without any cauſe being expreſſed in the warrant. *Ruſhworth*, vol. III. p. 1168.

‡ Finch, Mancheſter, Littleton, and other court-lawyers, gave it as their opinion, that the convocation called by the King's writ was not to conclude but by the King's writ, though the parliament ſhould be diſſolved. They continued, therefore, to ſit as a convocation, and the King granted them a new commiſſion to frame canons. *Heylin's Life of Laud*, p. 429, *& ſeq.*

§ Several of which were contrary to the fundamental laws of the kingdom, the liberty and property of the ſubject, and the right of parliament. One canon was againſt Popiſh recuſants; another exacted the new ceremonies of placing the communion-table, and approved the bowing towards the Eaſt; another condemned all ſectaries to the ſame penalties mentioned in the canon againſt Popiſh recuſants, and all thoſe

approving the new ceremonies of placing the communion-table, and bowing towards the East; Anno 1640.

thoſe to be excommunicated who ſhould make, import, print, publiſh, or diſperſe, any book or writing againſt the diſcipline and government of the church, and thoſe who ſhould maintain or abet any opinion or doctrine againſt the ſame, and all thoſe who reſorted not to church to join in public worſhip of God, but were content to hear ſermons only; a third ordained, that all ſhould be puniſhed who did not keep holy, and come diligently and reverendly to church, the day of his majeſty's moſt happy inauguration; a fourth concerned regal power. Here Laud's rage and oppoſition to the Scots, the paſſion now uppermoſt in his breaſt, occaſioned him to allow in this canon, that the care of God's church was entirely committed to Kings; that if in the firſt times of Chriſtianity prelates uſed this power, it was only becauſe in thoſe days there were no Chriſtian kings; and in caſe it was required, they were to ſubmit their lives even to Pagan princes. For any perſon or perſons to ſet up, maintain, or avow, any independent power, either directly or indirectly, to undermine the great royal office, was to overthrow the moſt ſacred ordinances which God himſelf had ordained; was treaſonable againſt God, as well as againſt the King. For ſubjects to bear arms againſt their King, offenſive or defenſive, was to reſiſt the powers which were ordained by God; and though they did not invade, but only reſiſt, as St. Paul tells them plainly, they ſhall receive to themſelves damnation. This canon eſtabliſhed every part of Sibthorp's doctrine; reſolved all diſtinctions of regal power into the abſolute monarchy of the Roman empire; and aſſerted, with a blaſphemous extravagance, that Chriſt came into the world to confirm ſuch tyrannies. In the preamble of the canon, it was required to be read upon ſome one Sunday in every quarter of the year; the miniſter was to be ſuſpended on neglect; and no biſhop, prieſt, or miniſter, was to preſume to ſpeak of his majeſty's power any other way than was expreſſed in the canon; all perſons who ſhould maintain any point or doctrine contrary to the ſaid propoſitions and explications, were to be puniſhed with excommunication and a ſuſpenſion of two years, for the firſt offence, and deprivation for the ſecond.

The convocation had taken other things into deliberation; ſuch as a pontifical, which was to contain the form and manner of the King's coronation, to ſerve for a rule on the like occaſions; a form to be obſerved in the conſecrating holy places; and a third for reconciling penitents who had done

open

Anno 1640. but framed an oath to be impoſed on the clergy and graduates of the univerſity; by which they were to ſwear they approved the doctrine and diſcipline of the church of England, and that they would maintain its government by archbiſhops, biſhops, deans, chaplains, &c *. This oath, which was deſigned to make the eccleſiaſtics of England as much independent of the legiſlative power as the Scotch covenant, ſo much condemned by

open penance, or who had revolted from the faith; a fourth for confirmation; and a fifth for ordaining biſhops, prieſts, and deacons. Laud alſo had made a motion for the new printing the Common-prayer in the Latin tongue; but theſe things could not be brought to concluſion, for their ſitting occaſioned ſuch diſturbance and clamor, that they were obliged to riſe before they had perfected their work.

Among the arbitrary canons framed by this convocation is one entitled, "Concerning Licences to marry." It contains the ſame reſtrictions in granting licences which have been ſince adopted with additional rigor by the legiſlature, and univerſally complained of as a grievance; *viz.* that one of the parties ſhould be reſident a whole month in the juriſdiction of the ordinary immediately before the licence was demanded: As the law now ſtands, one of the parties muſt be reſident a month in the pariſh where they are married, immediately before the ceremony is performed.

This convocation was nominated the moſt holy and ſacred ſynod. Laud opened it with a ſpeech in which he told the members, they were much indebted to the King for empowering them with a privilege they had not enjoyed for many years, the altering and making canons for the better government of the church. All the clergy who from fear or conſcience abſented themſelves from this aſſembly were puniſhed for contumacy; and the biſhop of Gloceſter, becauſe he would not avow that he willingly ſubſcribed to the new-made canons, was ſuſpended from his eccleſiaſtical function, and committed to the Gatehouſe. Beſides the canons which have been already mentioned, there was one which ordained the obſervation of thoſe abſurd articles which had been lately introduced at viſitations. *Heylin*, p. 439. *Fuller's Church Hiſt.* book XI. p. 168. *Nalſon*, vol. I. p. 371, *& ſeq.*

* The miniſters were enjoined by the biſhops to take this oath kneeling. *Fuller's Church Hiſt.* book XI. p. 171.

Laud,

Laud, had made their church, was confirmed and approved by Charles, but met with insurmountable opposition from every other quarter. It was looked on with abhorrence by some, because in their consciences they did not approve of the present doctrine or discipline of the church; by others, because they esteemed such an imposition, not ratified by consent of parliament, illegal; and an oath which contained an *et cætera* in the middle of it was ridiculed by every one. On the prolongation of this ecclesiastical assembly, the King declared in council, that he had granted such a commission for the remedying all just grievances, according to his gracious speech at the dissolution of the last parliament. All the forementioned canons were confirmed by letters-patent under the great seal of England, with a command that they should be read by the ministers in the time of divine service; and that all who had ecclesiastical jurisdiction should take special care the said canons were in all points duly observed, not sparing to execute the penalties in them severally mentioned, on all wilful transgressors *. The disgusts which the people had taken at the continued succession of oppressive acts of power, obviously contrary to the dictates, as well as the spirit of the constitution, were now come to maturity, and symptoms began to appear which threatened violent convul- Anno 1640.

* The ratifying the illegal ordinances of this assembly; the act of violence on the lords Brook and Warwick, in searching their studies and pockets for papers; with the unlawful commitment of the late members of the lower house; were, according to Charles's sense of these matters, an entire fulfilling the promises he had made of remedying just grievances, and taking a proper care of the liberties of the subject. *Rushworth*, vol. III. p. 1172.

Anno 1640. sions in the body politic. A large number of apprentices, with others of the lower sort, beset the archbishop's house at Lambeth, and one of them, only because there happened to be a drum in company, was taken and tried for treason, and, on the statute of the twenty-fifth of Edw. III. condemned, and accordingly hanged, drawn, and quartered, and his limbs set on London-Bridge. Notwithstanding this severe example, the King was obliged to appoint both horse and foot to secure the passages about Lambeth, and guard the convocation, with a double guard to preserve them from the fury of the populace. A body of two thousand people entered St. Paul's cathedral, where the High-commission court sat, and pulled down the benches, crying, "No High-commission! no bishop!"

Whitlock, p. 33.

Ship-money was every where disputed; the sheriffs were not only threatened by the council, but the attorney-general was required to send for the sheriffs of the counties of London, Middlesex, York, Berks, Surry, Leicester, Essex, and Northampton, to examine them, and to proceed against them as he should see cause, for their contempt in so important a service. The court and city entered into close cabals. The King had his private juntos, of which Sir Henry Vane, notwithstanding Clarendon's assertion that he was at this time suspected of treachery, was always one *; and the heads of the discontented party

Rushworth, vol. III. p. 1173, 1182.

* As a farther proof that a confidence was at this time placed in Sir Henry Vane, Charles, having a suspicion that his secret counsels were betrayed, issued out a ridiculous commission to Sir Henry Vane, and other his chief counsellors, to examine and enquire, by deposition of witnesses upon oath, who were the people who revealed the King's secrets. *Guthrie*, vol. III. p. 981. *Nalson*, vol. I. p. 344.

had

had their meetings and councils with the agents of the covenanters. The King was now obliged to have recourſe to his power to ſupply his urgent neceſſities; the money the convocation had granted him amounted to an hundred and twenty thouſand pounds *: But this, with the ſum he had raiſed from his other friends and dependents, being not ſufficient to defray the expence of the great preparations which were making againſt the Scots, he attempted to force the city of London into a loan of two hundred thouſand pounds. The riſing ſpirit of Liberty repelled the attack, and the King was obliged to content himſelf with the pitiful, yet dangerous, revenge of impriſoning three aldermen for refuſing to collect the names of thoſe who were able to contribute to- Anno 1640. Impoſitions.

* It is ſaid that the King found friends enough in the kingdom to raiſe a ſubſcription of three hundred thouſand pounds; but perhaps this ſupply, mentioned by ſeveral authors, is no other than the loan raiſed previous to the meeting of the parliament; becauſe had he had intereſt enough in the kingdom to obtain two ſuch large ſubſcriptions, he could not have been in the diſtreſſed circumſtances which it is very certain he was in at this time. Northumberland writes to the earl of Leiceſter, that notwithſtanding the unhappy breach of parliament, the King deſigned to levy an army of thirty thouſand foot and three thouſand horſe: "But, adds he, I cannot learn by what means we are certain to get one ſhilling to pay the expence. It grieves my ſoul to be engaged in ſuch counſels." It is worth obſerving, that ſuch was the diſſipation of the Engliſh court, that at the time when Charles was in great ſtraits, when preparations were making for a war againſt the Scots, the King and queen began to practiſe a maſk: Northumberland writes to the counteſs of Leiceſter, "I aſſure you their majeſties are not leſs buſy now than you have formerly ſeen them at ſuch exerciſes;" and in another place, "The King is daily ſo employed about the maſk, that till that is over we ſhall think of nothing elſe." Fourteen hundred pounds were appointed for the charge of one of theſe entertainments. *Sydney's State Papers*, vol. II. p. 531, 621, 629.

Anno 1640. wards the demanded ſum; and proſecuting in the Star-chamber the lord mayor and aldermen for not diſtraining citizens who had not paid ſhip-money *. The bullion in the Tower was ſeized, and forty thouſand pounds forcibly borrowed from the merchants to redeem the reſt. All the pepper was bought of the Eaſt-India company upon truſt, and ſold again at a great diſcount for ready money †. The reſolution of debaſing the coin, by mixing two or three hundred thouſand pounds of copper money with a fourth part ſilver, was with difficulty diverted by a very ſtrenuous diſcourſe of Sir Thomas Rowe, in which he ſtrongly repreſented the many inconveniencies and fatal conſequences which might follow. Coat and conduct money was again exacted ‡, and the city of London was ordered to furniſh it for four thouſand men. Knighthood-money was ſet on foot, with the commiſſion of array, and thoſe who held lands *in capite* of the King, were ſummoned to ſend men, horſes, and arms.

Rushworth, vol. III. p. 1188, & ſeq.

Theſe various exactions occaſioned a repreſentation from the deputy-lieutenants, ſetting forth, that the gentry did not know which ſervice perſonally to apply themſelves to; that which the

* An order was at this time iſſued to take the ſword from the lord-mayor. *Memoirs of Edmund Ludlow*, ed. 1721, p. 4.

† The thoughts of a croſs-marriage with the court of Spain was again renewed, and an attempt was at this time made to procure a ſum of money from that king. *Sydney's State Papers*, vol. II. p. 655.

‡ The payment of it was almoſt every where refuſed; and innumerable warrants were ſent from the council to commit refractory perſons, and conſtables and lower officers who had neglected to make returns. *Ruſhworth*, vol. III. p. 1202, *& ſeq.*

com-

commiſſion of array required, namely, the put- Anno 1640.
ting the trained-bands in a readineſs to march, or the other according to eſcuage, and tenures in knight-ſervice; and deſiring to be informed how the money ſhould be raiſed for the charge of the ſaid bands and forces, when required to march. The council ſolved theſe difficulties by the following directions: That the ſervice impoſed upon the trained-bands and other forces, were to be performed by every man in his own perſon; for the attendance on his majeſty, required by the other proclamations, according to the tenures in knights-ſervice, it might be done by deputy, or elſe by way of compoſition; and for the difficulty how to provide for the charge of the forces, when they ſhould march, they were to ſerve at their own expence *. If the noblemen and gentry ſhewed a kind of timid reſiſtance to oppreſſions which were every day multiplying, the brave and ſpirited commonalty continued to exhibit ſymptoms of a more formidable diſpoſition. Mutinies aroſe among the ſoldiers; they openly avowed diſtaſte to the cauſe for which they were to fight, ran from their colors, and laid violent hands on ſeveral of their commanders, whom they ſuſpected to be Papiſts †. Such was the general appearance of affairs in England; an appearance which might ſtrike terror to a leſs guilty adminiſtration!

Ruſhworth, vol. III. p. 1194, & ſeq.

* Theſe warlike preparations were required to be ſo entirely to the expence of the ſubject, that they were obliged to buy all their gun-powder at an exceſſive rate of the King.

† In the orders of the privy-council concerning theſe are complaints that the deputy-lieutenants, and others to whom that buſineſs appertained, were ſo backward in aſſiſting the officers in puniſhing and reducing the mal-contents, and in the raiſing of hue-and-cries for the apprehending thoſe who ran away, that they ſeemed to foment, rather than endeavor to ſuppreſs theſe mutinies. *Ruſhworth*, vol. III. p. 1191.

Anno 1640. While the King and council were thus buſied, the Scots had not been idle in reforming the abuſes of church and ſtate, and making neceſſary preparations to defend their pretenſions *. Their parliament having been prorogued till the ſecond of June, on that day they aſſembled. The King ſent down an order for a ſecond prorogation; but there being a deficiency of form in the commiſſion by which it was to be executed, the parliament made uſe of this omiſſion to finiſh their buſineſs: After paſſing ſeveral ſalutary acts, they entered into a bond for adhering to them, and proſecuting the incendiaries of the kingdom. They raiſed a more numerous body of troops than they were able to bring into the field the laſt year, and exacted a tenth penny throughout the land; large ſums were borrowed upon truſt, and the Scotchwomen, imitating the Roman matrons on a like memorable occaſion, gave up their jewels and ornaments to ſupply the neceſſity of their country. The Scotch army, though more numerous, was ſooner ready than the King's; They beſieged and took Edinburgh-caſtle, and then marched towards the borders of England, under the command of general Leſley.

The army which Charles had raiſed to oppoſe them conſiſted of twenty thouſand foot and two thouſand horſe. All the generals who had ſerved in the laſt campaign were laid aſide, becauſe they were not in friendſhip enough with Strafford,

* So powerfully did the ſpirit of order and unanimity reign among this people during their ſtruggles for Liberty, that though neither council nor ſeſſions, nor any other regular court of judicature ſat, and though their meetings were very numerous, yet they had not been diſturbed either with tumult, riot, or exceſs of any kind. *Scots Declaration, Nalſon*, vol. I. p. 521.

who

who was the ſoul of this buſineſs *, to enter with alacrity into all his counſels. The earl of Northumberland, who, though a great favorite both of Strafford and Laud, had conducted himſelf in a manner not to have loſt all popularity, was for this reaſon appointed general. Strafford, after having raiſed eight thouſand men in Ireland, which he left to the care of his creature, the earl of Ormond, came over from that country to command as lieutenant-general; and the lord Conway, a great debauchee, notwithſtanding his character as a ſoldier had ſuffered in the expedition to the iſle of Rhee, was, from the ſole merit of being devoted to the court, and talking to Laud of church-matters in his own ſtyle, appointed general of the horſe. Anno 1640.

Among the other advantages of the Petition of Right, it had aboliſhed court-martials, and the lawyers, who now began to think the day of reckoning might be near, had declared, that martial law could not be exerciſed till the Scots had invaded England. The generals, notwithſtanding this, had executed a mutineer, and applied for a pardon to the crown. On this occaſion the forward Conway gave it as his advice, that the King ſhould grant a commiſſion for the execution of martial law, on his own authority; and if any lawyer was ſo imprudent as to diſcover the ſecret of its illegality to the ſoldiers, it would be neceſſary to refute him, and hang the lawyer himſelf by the ſentence of a court-martial: "For, ſaid he, the ſoldier may bring the country to reaſon on their diſobedience in regard to ſhip-money, but who ſhall compel the ſoldier?" Ruſhworth, vol. III. p. 1199, & ſeq.

* It was by Strafford's advice, that the generals who ſerved in the laſt campaign were laid aſide. *Lloyd's Worthies*, p. 29.

Anno 1640. Northumberland ſo much diſtaſted the being called forth to act the moſt conſpicuous part in a buſineſs which no good man in the kingdom reliſhed, that he made uſe of a ſlight indiſpoſition to declare himſelf totally unfit to perform the offices of his function *; and Strafford, though really in an ill ſtate of health, but too much intereſted to be inactive, exerciſed the ſupreme command in his ſtead, but ſtill with the title of lieutenant-general; not caring, in this critical juncture, to aſſume that of general, becauſe of the extreme envy and popular odium which attended him.

The Scots, notwithſtanding their warlike equipage, continued to preſerve the utmoſt decorum of language and manner. On their entry into England, they diſperſed two large remonſtrances: In theſe they ſet forth, in a ſtrong manner, the nature of their provocations. They had not only for many years patiently ſuffered, they ſaid, the tyranny and inſolence of prelates, and their continual oppoſition to the truth and power of religion, but alſo the violation of all their liberties, and almoſt the total ſubverſion of their religion; that when groſs Popery was obtruded upon them in the book of Canons and Common-Prayer, their petition to the King on this head was utterly

The Scotch army enters England.

* Whilſt affairs carried a different appearance, he attached himſelf to Strafford and Laud, and had the art to inſinuate himſelf ſo much into their good graces as to make them the means of obtaining what he deſired of the King. Nevertheleſs, he had a diſlike to both his benefactors: He writes ſlightingly of Strafford; and of Laud he ſays, "That for a man to think well of the reformed religion was enough to make that prelate his enemy." When the popular party began to grow formidable, he withdrew himſelf from the ſtate-cabal, and engaged with the oppoſite faction. *Sydney's State Papers*, vol. II. p. 623.

rejected,

rejected, and they forbad to inſiſt under the pain of treaſon; that when nothing leſs than a total ſubverſion of all their liberties would ſatisfy the pride and malice of their enemies, and when the King was marching towards them with a great army, rather than fall in ſeeming diſobedience to their ſovereign, or give the ſmalleſt diſtaſte to their brethren in England, they complied ſo far with his majeſty's pleaſure, that, notwithſtanding the determinations of their lawful aſſembly, they were contented that a new free aſſembly and parliament ſhould be appointed, where all things concerning their religion and liberties might again be conſidered and eſtabliſhed: But when, according to the articles of pacification, matters eccleſiaſtical were determined in the aſſembly, according to the conſtitution of the church, and his majeſty's high commiſſioner had promiſed to ratify them in parliament, the parliament convened for perfecting the work was prorogued, contrary to the laws and cuſtoms of the kingdom; war was determined againſt them at the council-table of England, without hearing what their commiſſioners had to ſay in their defence; the petition of their parliament was rejected; their commiſſioners reſtrained; one of their noblemen impriſoned; garriſons of ſtrangers ſet over them, who had exerciſed cruelty even againſt women and children; their ſhips and goods taken and ſunk *; the owners ſtripped naked †, and more cruelly uſed by the ſubjects of their own Anno 1640.

* Their ſhips were arreſted in the ports of England and Ireland. In their remonſtrance they ſay, that they forbore to make reprisals on the ſhips and goods of their dear brethren in England. *Monteth's Hiſt. of the Troubles of Great Britain*, p. 55.

† The garriſon of the caſtle of Edinburgh committed acts of hoſtility upon the city and its inhabitants. *Id. ibid.*

King

Anno 1640. King than by Turks and infidels; great armies prepared againſt them, with a terrible commiſſion to ſubdue and deſtroy them, their Religion, Liberty, and Laws.

Theſe their intolerable evils and provocations, they ſaid, proceeded from the archbiſhop of Canterbury, the lieutenant of Ireland, with the Hiſpanioliſed Papiſts, a too powerful faction in England, who had driven them to the neceſſity of this invaſion, to ſtir up the Engliſh againſt them, that they might with their own ſwords extirpate their religion, and be made the authors of the ſlavery of both nations: The purſuing theſe incendiaries, and demanding juſtice againſt them of the King and parliament of England, was not coming againſt England, as their enemies would inſinuate: That there could be no juſt cauſe of a national grievance, ſeeing the kingdom of England, convened in parliament, had refuſed to contribute to any ſupply againſt them; and this when the parliament of Ireland had offered their perſons and eſtates for that purpoſe; when all plots and policies were ſet to work; when public declarations by authority were made; when they were proclaimed traitors and rebels at every pariſh-church *: Yet ſo wiſe, ſo grave, ſo juſt was that high court of parliament, that no threatenings nor fears, no promiſes nor hopes, no fineſſe nor cunningly-deviſed ſuggeſtion, could move them to grant any ſubſidy for a war againſt their brethren; but rather, by their ſpeeches, grievances, and complaints, as

* The King publiſhed a proclamation, which declared the Scots and their adherents rebels; and a prayer was publiſhed, and ordered to be read in all the churches, for the King's ſucceſs in his expedition againſt the rebels of Scotland. *Whitlock*, p. 33.

much as in them was, did juſtify the cauſe which they defended. This recent favor did ſo bind their hearts, that if their power was ever ſo great, they would judge themſelves the moſt unworthy of men, and could look for no leſs than vengeance from the righteous God, if they ſhould act againſt a nation ſo repreſented to them in that honorable meeting. In this their thankful acknowledgment, they deſired the city of London might have their own large ſhare for the noble profeſſions they had given of their conſtant affection for religion, and the peace of both kingdoms, notwithſtanding the continual aſſaults of the miſleaders of the King againſt them, always rendering them ſeditious in his ears. This was followed by a ſolemn oath, that the Scots intended no enmity or rapine, and that they would take no mens goods, or engage themſelves in blood, unleſs they were forced to it; that they would not take from their friends and brethren, but for their own money and juſt payment. The ſoul of wiſdom taught, that both nations muſt ſtand or fall together; that the devices of the enemy were for the oppreſſing both: they come among them very ſenſible of their paſt ſufferings and preſent dangers, both in Religion and Liberties, and moſt willing to do them all the good they could, for the help they had given them at the Reformation, in freeing them from the French: That in return they did expect, from the ſenſe of their intolerable diſtreſs which forced them from their own country, that the Engliſh would join and concur with them in noble ways to obtain their juſt deſires; and when their means were ſpent, would, upon a ſufficient ſecurity of payment, provide what was neceſſary for the entertainment of their army. Anno 1640.

Theſe

Anno 1640. Theſe remonſtrances ended with an aſſurance that the Scots would demand nothing of the King, but the ſettling and ſecuring of the true Religion and Liberties of their country, according to the conſtitutions and acts of the late aſſemblies and parliament, and what a juſt prince owed, by the laws of God and nature, to his grieved ſubjects; that their abode in England ſhould be no longer than their juſt grievances might be heard and redreſſed by the Engliſh parliament, and ſufficient aſſurance given them for the legal trial and puniſhment of the authors of evil to the two nations, and for the ſettling the Religion and Liberties of both in peace againſt the machinations of Romiſh contrivance, acted by their degenerate countrymen; that their return ſhould be with expedition, peace, and order; that if the Lord ſhould bleſs their endeavors, and their intentions were not croſſed by the oppoſition of the Engliſh, the fruits would be ſweet, and the effects good to both nations and their poſterity, and to the reformed churches abroad; Scotland would be reformed, as at the beginning; the Reformation of England, long prayed and pleaded for by the godly, would be, according to their wiſhes and deſires, perfected in doctrine, worſhip, and diſcipline; Papiſts, prelates, and all the members of the antichriſtian hierarchy, with their idolatry, ſuperſtition, and human inventions, packed off, and the names of Sects and Separatiſts would no more be mentioned.

If, when the laſt Engliſh parliament was ſummoned, there remained in the majority of the nation a tenderneſs towards the power of their monarch, and the dignity of the prelates, that diſpoſition no longer exiſted: the diſſolution of a par-

a parliament, which, during the twelve years remiſſion of thoſe aſſemblies, had been ſo impatiently expected, and ſo much depended on for the redreſs of grievances; the innumerable oppreſſions which had been crouded into the ſhort ſpace between that diſſolution and the invaſion of the Scots; with the exorbitances of the convocation; wrought ſo powerful an effect on the minds of men, that the threatenings theſe remonſtrances breathed out againſt prelates were pleaſing to the generality of the Engliſh; and the ſharp expreſſions againſt the form and diſcipline of their church, gave very few but the court-faction diſguſt. The whole of theſe declarations tended ſo much to gather the affections of men in their preſent ſtate of diſcontent, that the Scots were expected with impatience, and every accident which retarded their march gave pain to the public. The counties of Northumberland and the biſhopric of Durham, which lay immediately expoſed to the invaſion, abſolutely refuſed to lend money to pay troops, or to furniſh horſes to mount the muſketeers; and the trained-bands would not ſtir without pay. Anno 1640.

Conway, at the head of one thouſand horſe and five hundred foot, advanced to reconnoitre the enemy, but was driven back to Newcaſtle. In a council of war held at this place, it was determined to fortify the river Tyne at Newburn. Conway, who could not draw together above five thouſand foot and two hundred horſe, when he viewed the intrenchments, judged it impoſſible to guard this paſs, and prepared to retreat yet farther back, when he received a letter from the earl of Strafford, who, with the King, was at this time arrived at York. Strafford reproached Conway for not having ſkirmiſhed with the enemy

Strafford's Letters, vol. II. p. 413.

Anno 1640. enemy during their march, ſpoke with great contempt of the Scotch army, and conjured the general to redeem his honor by ſome notable action, and to give the enemy battle upon their paſſing the river. On this peremptory advice, Conway altered his reſolution, and prepared his troops to diſpute the paſſage.

The Scots framed their behavior to their profeſſions: They careſſed every Engliſhman who came into their camp; and Leſley, in a very civil meſſage, demanded liberty to paſs the river at Newburn with his countrymen, that they might preſent their petitions to the King: On a refuſal, he prepared to force the paſſage. The Engliſh ſoldiers, far from ſhewing any alacrity to engage the enemy, began to murmur at the hardneſs of their duty; and it was with the utmoſt difficulty their officers could perſuade them to ſtand the firſt onſet. Engliſhmen ſeldom ſtand in need of being exhorted to behave with alacrity in the buſineſs of fighting; but the arguments commonly uſed on theſe occaſions could little avail with men who dreaded victory worſe than a defeat. On a few of their fellows being ſlain by the artillery of the Scots, the whole army fled to Durham, leaving the moſt obſtinate of their officers to be killed or taken by the enemy*. The Scots took poſſeſſion of the town of Newcaſtle, with the King's magazines of powder, ammunition, and proviſion. They feaſted with the mayor, drank the King's health, and entertained the inhabitants with three ſermons, preached by their own divines.

Battle of Newburn.

Engliſh forces retreat before the Scots.

Ruſhworth, vol. III. p. 1238.

* Burnet, in his Memoirs of the Dukes of Hamilton, ſays that the lord Conway was not in the engagement. *Hamilton's Memoirs*, p. 178.

Strafford,

Strafford, whoſe weak ſtate of health † had hitherto prevented his entering into action, found the beaten army at Durham: he behaved with ſuch injudicious haughtineſs on the firſt entering into his charge, that he ſoon became the only enemy the army deſired to overcome. They openly vindicated their conduct at the fight at Newburn; and ſaid, that no man could wiſh ſucceſs in the war againſt the Scots, without wiſhing England to be, by the like illegal power, enſlaved: So properly did even the common ſoldiers, in this enlightened age, judge of the important queſtion. The prudent conduct of the Scots ſupported and increaſed that good opinion which was every where entertained of them: Far from ſhewing elation at their victory, they deplored the neceſſity of being obliged to ſhed the blood of their Engliſh brethren, and treated the priſoners they had taken with ſuch extraordinary expreſſions of love and civility, that they made converts of all their captives; whoſe reports did them infinite ſervice. Strafford being thoroughly acquainted with the diſpoſition of the army, found it neceſſary to bring them back to Yorkſhire; himſelf and the King, who was advanced as far as North-Allerton, retired to York *. Anno 1640. Clarendon, vol. I. p. 114.

† He was much ſubject to the ſtone, and was at this time juſt recovered from a violent attack of that painful diſtemper.

* Before Charles ſet out on this ſecond expedition againſt the Scots, he iſſued a proclamation to revoke the ſame monopolies, licences, and commiſſions, which had been mentioned in his laſt proclamation on the like ſubject. This ſhews that the other had been only regarded as an expedient, and never executed. At this time a proclamation was iſſued againſt the abuſes of his majeſty's royal prerogative in the levying debts, and another for the better regulating the clerk of the market and the King's water-bailiff, and to reſtrain the execution of the charter of brick and tile-makers. By the matter contained in theſe two laſt proclamations it appears, that in theſe points,

Anno 1640. In a ſhort time, the King received a petition from his Scotch ſubjects, craving the redreſs of their grievances; and that he would, by the advice of the Engliſh parliament, re-ſettle the public tranquility of the iſland.

Nothing could be better calculated to pleaſe the public than this well-timed application. The neceſſity of the King's affairs not only ſubjected him to the mortification of receiving the petition and the advice of thoſe he termed rebels, but to ſend them a civil anſwer; he required the petitioners to expreſs the particulars of their deſires, he having been always ready to redreſs the grievances of his ſubjects. The Scots immediately returned anſwer, That the ſum of their deſires was, that his majeſty would be graciouſly pleaſed to command that the laſt acts of parliament might be publiſhed in his name, with the eſtates of parliament; that the caſtle of Edinburgh be furniſhed and uſed for the defence of the ſubjects; that their countrymen in his majeſty's dominions of England and Ireland be freed from cenſure for ſubſcribing the covenant, and be no more preſſed with oaths and ſubſcriptions unwarrantable by law; that the common incendiaries, who had been the authors of the combuſtions, might receive their juſt cenſure; that their ſhips and goods, with all the damage thereof, might be reſtored; that the wrongs, loſſes, and charge, which they had ſuſtained, might be repaid; that the declaration made againſt them as traitors might be recalled; that, by the advice and counſel of the ſtate of England, his majeſty might be pleaſed to remove the garriſons

points, as in others, the ſubjects had been greatly abuſed in the exerciſe of the King's aſſumed prerogative. *Rapin*, vol. X. p. 368. *Rymer's Fœdera*, vol. XX. p. 344. 401.

riſons from the borders, and all impedements which ſtopped free trade, and, with the advice of the ſaid parliament, condeſcend to all particulars which might eſtabliſh a permanent and well-grounded peace, for the enjoying their Religion and Liberties. Anno 1640.

The King received theſe propoſals with all the indigent rage which could be expected from a man of his diſpoſition and ſtrong prejudices; but the conſequences of his imprudent adminiſtration began to preſs him now on all ſides: His Exchequer was empty; his revenue anticipated; every expedient for ſupply tried to the utmoſt; his army undiſciplined and diſaffected; himſelf ſurrounded by people who ſhewed diſguſt at all his meaſures; his boſom friend Hamilton, and the tool of his tyranny Finch, unable to adminiſter any comfort, were ſolely engroſſed in the care of their own preſervation, the ingratiating themſelves with thoſe who were able to protect them on the day of reckoning, when they ſhould account for their paſt crimes to a parliament, which promiſed to be more formidable than any one which ever had ſat in England *.

Strafford, whoſe ſituation was too deſperate to admit of management, adviſed fighting †; but

* Hamilton was ſo inſtrumental in bringing the King to aſſent readily to pacific meaſures, that the popular party, both of Engliſh and Scots, became from this period much reconciled to him.

† Lord Herbert was the only man who ſeconded Strafford in this advice; he propoſed to the King the fortifying York, and making it a garriſon-town, and ſupported this opinion with ſeveral arguments which had a very pernicious tendency. The reſt of the people about the King, who dared to deliver their opinions on this point, were of ſuch different ſentiments from theſe two noblemen, that Charles being deſirous to throw into Stockton-caſtle, a place of importance on the river Tees, an additional force, he was earneſtly diſſuaded

Anno 1640. Charles met with ſuch freezing looks of diſapprobation to this counſel in all the reſt of the military officers who attended him, that he was again obliged to ſubmit to the humiliating circumſtance of entering into another treaty with his Scotch ſubjects. Before he aſſented to this mortifying condeſcenſion, he tried the affection of the Yorkſhire gentlemen, and Strafford attempted to animate them againſt the Scots by ſhewing them, that if the invaders once taſted the ſweetneſs of their ſoil, they would not be in a hurry to depart; with his uſual warmth he told them, that they were bound, out of their allegiance, to attend his majeſty in this ſervice; that it was little leſs than high-treaſon, and they were no better than beaſts, if they refuſed. This petulant harangue of Strafford had no other effect than to increaſe that reſentment which his tyrannical government of this country had raiſed againſt him: inſtead of making the proviſion which was required of them, they propoſed petitions of advice to call a parliament *, that the preſent differences might be compoſed, and a happy peace ſettled between the two nations.

Ruſhworth, vol. III. p. 1235. Clarendon, vol. I. p. 115.

In this extremity of affairs, the King had recourſe to an antiquated cuſtom, which had never

from it, as a meaſure which might give ſuſpicion and jealouſy to the Scots. Strafford had given a commiſſion to the earl of Worceſter, and his ſon the lord Herbert, to make arbitrary levies in the counties of England and Wales. *Ruſhworth*, vol. III. p. 1293, & *ſeq.*

* Previous to this, they had preſented a petition againſt the billeting ſoldiers, complaining of the enormous charge they had been put to in the laſt year's expedition, and repreſenting, they could not draw together the trained-bands without fourteen days pay from his majeſty. Strafford refuſed to preſent that petition in which they adviſed the King to call a parliament. *Ruſhworth*, vol. III. p. 1214, & *ſeq.* 1230. *Rapin*, vol. X. p. 448. *Smollett's Hiſt.* vol. VII. p. 167.

been

been practiſed ſince the time of Edward IV. of calling all the Peers by writs under the great ſeal, to attend him at York. The complaiſant behavior of the houſe of Lords, the laſt parliament, had undoubtedly filled him with hopes that the Peers would preſent him with a ſum of money, or be ſo raſh as to raiſe ſubſidies by their own authority *. This expedient cauſed ſuch a general alarm, that petitions poured in for the redreſs of grievances; againſt the bringing Iriſh troops into the kingdom †; for a treaty with the Scots; and ſummoning a parliament. The firſt petition preſented to the King on this ſubject was ſigned by the peers Bedford, Eſſex, Hertford, Warwick, Briſtol, Mulgrave, Say and Seal, Howard, Bolingbroke, Mandeville, Brook, Paget ‡. The

Anno 1640.

Ruſhworth, vol. III. p. 1260, & ſeq.

* Clarendon ſays, that one of the members of the council did make ſuch a propoſal. *Clarendon*, vol. I. p. 116.

† The Iriſh army, conſiſting of ten thouſand foot and fifteen hundred horſe, were to have invaded the Weſtern part of Scotland, whilſt the Scots were attacked in the South by the Engliſh army. Ten thouſand men, under the command of the lord Herbert, were to be ſent into the North of Scotland, and a fleet of ſhips into the Frith. The plan of the war was not ill concerted, and, could it have been fully executed, it might have been attended with a fatal ſucceſs: but the inſtant when Strafford turned his back upon Ireland, the parliament of that kingdom, encouraged by the example of the Engliſh houſe of Commons, began to make objections to the new manner of levying ſubſidies, and threw ſuch interruptions in the way of the officers of the crown, that the Iriſh army was not ready to march at the appointed time. The diligence of the Scots, and the backwardneſs of the Engliſh, prevented the execution of the reſt of the plan. Strafford was to have returned to Ireland to take command of that army, had not the earl of Northumberland's pretended illneſs diſconcerted the affairs in England. *Guthrie's General Hiſt. Carte's Life of Ormond.*

‡ The lord Wharton aſſerted, that himſelf and the lord Howard, for delivering this petition, or a petition of the like nature, were put under arreſt; and Strafford moved, that

Anno 1640. ſecond petition came from the city of London *, to whom the Scots had very judiciouſly ſent a complaiſant and affectionate letter, inviting them to continue the Newcaſtle-trade, and aſſuring them of a perfect ſecurity. Such being the loud, the univerſal cry of the nation, Charles, to prevent the clamorous petitions which were preparing in all quarters, at the firſt meeting of the great council of Peers told that aſſembly, he was reſolved to call a parliament; weakly adding, that the queen had adviſed him to it. Thus he avowed to the public, what had been long ſuſpected, and much murmured at, that he ſuffered his wife to have an influence over his moſt important counſels.

Council of Peers. The firſt thing determined on by the Peers was, that the King ought to enter into an immediate treaty with the Scots. They named ſixteen of their own members for this commiſſion, all of them popular men †, the King having received the mortifying advice, that he muſt not appoint any who were diſagreeable to the Scots, for fear of fruſtrating the good effects intended by the treaty. Charles added ſix aſſiſtants to the

they ſhould be ſhot for ſedition. *Burnet's Hiſt. of His Own Times*, vol. I. p. 20.

* The privy-council, hearing that the city was about to petition againſt grievances, and for a parliament, ſent them a long letter, in which they endeavored to perſuade them, that it was a very improper time to ſend ſuch a petition, when his majeſty was engaged in perſon for the defence of the city; and that the demanding at ſuch a time a redreſs, which they might be ſure to gain from his majeſty's grace and goodneſs, would be a juſt cenſure upon them in future times. *Ruſhworth*, vol. III. p. 1262.

† Earls of Bedford, Hertford, Eſſex, Saliſbury, Warwick, Briſtol, Holland, Berkſhire, viſcount Mandeville, lords Wharton, Paget, Brooke, Pawlet, Howard, Saville, Dunſmore.

ſixteen peers; the earls of Traquaire, Morton, Lanerick, Secretary Vane, Sir Lewis Steward, and Sir John Borroughs; men who, he ſaid, were either verſed in the laws of Scotland, or had been acquainted with the former paſſages in this buſineſs. The commiſſioners were recommended to make the articles of pacification for laſt year the grounds of their treaty; but not to yield to any of the new demands of the Scots. York was the city the King deſtined for the meeting, that matters might be expedited by a quick communication; but it was changed to Rippon, on the Scots declaring that they could not truſt their commiſſioners in a place where the lord-lieutenant Strafford ruled, againſt whom, as a chief incendiary, they intended to inſiſt, who had declared them traitors in Ireland before the King had done it in England, who deſired the breaking up the treaty, whoſe commiſſion was to deſtroy them, and who had in his army a great many Papiſts, who dreaded the pacification as productive of their ruin and diſſolution; that there were many ungodly perſons about the King, who waited the occaſion of expreſſing their malice and revenge againſt the whole nation. They objected alſo to the earl of Traquaire aſſiſting at the treaty, becauſe he was another of the grand incendiaries of whom they complained. This difficulty was ſolved by a declaration, that the aſſiſtants were not authorized to treat with the commiſſioners of Scotland, or to have any voice or vote in the debating or concluding any thing.

Anno 1640.

Ruſhworth, vol III. p 1283, & ſeq.

Matters being thus ſettled, the Scots ſent commiſſioners * to the place appointed for the treaty.

* The earl of Dumfermling, lord Loudon, Sir Patrick Hepburn, Sir William Douglas, John Smith, Alexander Wedderbourn, Alexander Henderſon, Archibald Johnſton.

Anno 1640. They excuſed their not being of numbers or quality equal to thoſe they were to treat with, becauſe of the abſence of their nobility from the army, and that themſelves were but a ſmall committee from the parliament. After many friendly debates, or rather conferences, it was agreed on, as the preliminaries of the treaty, that the Scots ſhould be allowed for their maintenance eight hundred and fifty pounds *per* day, a contribution they had laid on the counties of Northumberland and the biſhopric of Durham, beſides what they had plundered from their declared enemies the Papiſts and prelates: This maintenance was on condition that the Scots would content themſelves with that ſum, and neither moleſt Papiſts, prelates, nor their adherents; free trade and commerce was to be reſtored between the two nations; the victuals and other neceſſaries to ſupply the army were to be free of cuſtom; no victuals, arms, or ammunition, were to be imported into Newcaſtle; and there was to be a ceſſation of arms, according to the particulars to be agreed upon. The commiſſioners for the treaty had the addreſs to continue the debates ſo long upon theſe preliminaries, that it was the twenty-ſixth of October before the conditions of the truce were determined: it was therefore impoſſible to diſcuſs the articles which were to be the ſubject of the treaty before the third of November, the day appointed by the writs for the meeting of the parliament. The King was very deſirous to have both armies diſbanded; but this the Scots would not agree to, nor to another propoſal which had been made of diminiſhing the number of both armies: He was ſo earneſtly preſſed by his own commiſſioners to remove the treaty from Rippon to London, that he was obliged to comply with this, as well as to the

Ruſhworth, vol. III, p. 1297.

the ceſſation of arms, by which the Scots were aſſured of the maintenance they had demanded; and the river Tees was made the boundaries of both parties. To ſupply the large ſum which was neceſſary to ſupport two numerous armies, and to preſerve the Northern counties from farther depredation, a loan of two hundred thouſand pounds was borrowed of the city of London: this money was willingly advanced by the citizens, the lords of the great council of York having made it their requeſt, with a promiſe that all the peers in the kingdom ſhould be bound for the payment. Anno 1640. Ruſhworth, vol. III. p. 1272, & ſeq.

On the firſt meeting of the commiſſioners of both parties, the Engliſh were accoſted by the Scots with a very unpromiſing reſerve and coldneſs. The ſurprize with which they were ſtruck on this behavior was farther encreaſed, on the the earl of Rothes upbrading viſcount Mandeville for not having ſhewn themſelves more early in the ſupport of the cauſe: Mandeville appearing aſtoniſhed at this charge, Rothes pulled out of his pocket a letter ſigned by the earls of Bedford, Eſſex, Brooke, and Warwick, with the lords Mandeville, Saville, Say and Seal; in which they, in general terms, promiſed an hearty concurrence with the Scotch covenanters, on their entering with an army into England. The ſix lords, whoſe hand-writing had been counterfeited, concurred in ſo ſolemn an aſſurance that the whole was a forgery, that they at length ſatisfied the Scots. The deceit was afterwards found out to be a contrivance of the lord Saville: The Scots had written to their agents in London, to get ſome ſolid aſſurance of aſſiſtance for their friends in England, on which they might more certainly depend than on general promiſes; the lord Loudon Treaty at Rippon. Oldmixon's Hiſt. of the Stewarts, p. 141, & ſeq.

Anno 1640 don tranſmitted this requeſt to the lord Saville; Saville ſent his ſecretary to the ſix lords above-mentioned, who every one of them promiſed their good offices on every opportune occaſion which preſented itſelf, but refuſed to ſign any compact: Saville framed a letter on theſe good intentions, and ſigned it with their forged names. He afterwards wrote another letter in his own name to Loudon, in which he earneſtly exhorted him to perſuade his countrymen to enter England with their army; gave him many encouragements, which had ſome foundation, and, to make the proſpect more flattering, many falſe pieces of intelligence; he gave very judicious advice concerning the conduct of the Scots after their entry into England, which they ſeemed to have followed exactly *. Saville, who had taken all this pains to ſtrengthen the popular party in England by a conjunction with the diſcontented Scots, was a determined courtier, and a man who had no private principle of honeſty, nor a diſintereſted one in regard to the public: His ſole inducement to act this dangerous part was an invincible hatred he bore to Strafford, who had overtopped him in regard to court favor, and who had thwarted him on many occaſions: the only way to ruin his rival effectually was to bring in his potent enemies the Scots. Thus the public is ſometimes benefited by the vices as well as the virtues of particulars, and receives important advantages from the irregular affections of the worſt members of ſociety.

The diſcovery that the fore-mentioned letter was an impoſture, cleared up all matter of dif-

* Beſides this, when the Scots were on the point of invading England, they received another letter to encourage them in their enterprize, and quicken them in their motions. *Oldmixon*, p. 145.

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ference among the commiſſioners. The Scots highly careſſed the Engliſh lords, to whom they proteſted what they had urged in their declaration, that they had no other deſign than to concur with the Engliſh parliament; to bind the prerogative within due limits; to circumſcribe the high claims of the clergy; to chaſtiſe the inſolence of the Papiſts; and to ſettle on a firm eſtabliſhment the conſtitution of the two kingdoms, on free and equitable principles. To theſe proteſtations, of themſelves ſufficiently perſuaſive, the Scots added other endearments: they brought with them, and delivered up, two officers of quality, Wilmot and O'Neale, taken at the fight at Newburn; they had treated them with great politeneſs, and had been at pains to give them high ideas of their courage, reſolution, diſcipline, good intention, and the juſtice of their cauſe. Wilmot and O'Neale were, from ſome private injuries they had ſuſtained, among the number of Strafford's enemies; and their reports of what they had ſeen and heard in the Scotch camp added to thoſe prepoſſeſſions the Engliſh had conceived in their favor, and increaſed the popular odium againſt the hated Strafford; who, when almoſt every mouth poured forth imprecations againſt him, had ſhewn, in a moſt improper manner, his courage and zeal againſt the covenanters, by ſending a party of horſe to attack them in their quarters at Durham, whilſt matters were ſettling concerning the ceſſation, by the commiſſioners at Rippon *. Anno 1640.

* Notwithſtanding the treaty in hand, he adviſed the King yet to fight the Scots, and committed this outrage to ſhew how eaſily they might be driven out of the kingdom. He defeated ſeveral parties, and took ſome of the Scotch officers priſoners.

Leſley

Anno 1640. Leſley complained loudly of this hoſtility, ſaying he had himſelf forborne to make any ſuch attempt, out of reſpect to the treaty. The Engliſh commiſſioners reſented it as an affront to them; and when it was known that the officer who conducted the enterprize was a Roman Catholic, it raiſed ſuch an outcry that the King was obliged to ſend his poſitive commands to the general not to give any more ſuch orders. Before the ceſſation of arms, and whilſt things remained in an uncertain ſtate, the Scots diſcovered, through the means of their friends about the court, that they were betrayed by the earl of Montroſe, who had kept up a ſecret correſpondence with Charles; one of his letters was ſent to Leſley: Montroſe, on being taxed with holding intelligence with the enemy, openly avowed the fact, and aſked, who was the man would aſſert the King was an enemy? This boldneſs ſilenced the greater part of his accuſers; but the more valiant and more judicious Leſley gave it as his opinion, that he ought to be tried and executed by a court-martial *. Charles's ſituation was ſo deſperate, that he could make no advantage of Montroſe's treachery; he was obliged to ratify all which his commiſſioners had concluded on †,

Ratification of the treaty.

* An act had paſſed in a committee of the Scotch parliament, that none ſhould, under pain of death, write any letters to the court, but ſuch as were ſeen and approved by at leaſt three of the committee. *Memoirs of the Dukes of Hamilton*, p. 179.

† The council of Peers with an unanimous voice determined, that it was neceſſary to ratify what had been concluded on, and proceed in the intended treaty with the Scots: Even Strafford, overcome by the general voice, declared, that it was not poſſible to keep the counties of Cumberland and Weſtmorland from the Scottiſh power; that Newcaſtle was not to be gotten out of their hands this winter, if the King had an army on foot of an hundred thouſand men; that the boundaries

and prepare for his journey to London, there to meet a parliament, and to endeavor to ſatisfy the importunate demands of two enraged nations, whom he had provoked with a variety of injuries, and with whoſe power he was at this time in no capacity to contend. Anno 1640.

Theſe were not all the difficulties which agitated him at this time: Himſelf and his beloved counſellor Laud were alarmed at the pretended diſcovery of a plot among the Papiſts, which threatened both their lives. It was communicated to Sir William Boſwell, Charles's reſident at the Hague, by Andreas ab Habernfield, a domeſtic of the queen of Bohemia, who pretended to have it from a Papiſt converted to the Proteſtant faith, and let into the ſecret on account of his ſuppoſed orthodoxy. The ſtory imported, that the pope and cardinal Richlieu were deeply concerned in fomenting the troubles of Charles; and that meaſures had been taken by Con and Roſſetti, two nuncios from Rome, for poiſoning both the King and the archbiſhop. This was ſupported by a detail of cabals, meetings, and characters, among the Popiſh faction, of which it was affirmed the queen, the earl and the counteſs of Arundel, were patrons and directors. Laud was the only perſon in England to whom this plot, under the promiſe of an inviolable ſecrecy, was diſcovered. He communicated it to Charles, with the ſame cautions; and Charles choſe to ſuppreſs the matter, rather than quarrel with his good friends the Papiſts, who in this time of his neceſſity had advanced him large ſums of money. It is likely Ruſhworth, vol. III. p. 1310, & ſeq. Guthrie, vol. III. p. 986, & ſeq.

boundaries of Yorkſhire were not to be defended; and the King's army could not be truſted. *Ruſhworth*, vol. III. p. 1308, *& ſeq.*

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Anno 1640. he did not give much credit to the tale, ſince nothing could be more improbable than that conſpiracies ſhould ariſe from that quarter. Had it been related of the Puritans, he would have been glad of an opportunity to have ſeized their perſons, and rendered them ſuſpected to the public. Without any impeachment of his underſtanding, he might treat very ſlightingly an intelligence which involved in treaſonable deſigns againſt his perſon both his beloved queen, who, by the power ſhe had over him, governed with an uncontrouled ſway, and a party for whoſe ſake he had incurred the reſentment of his whole people. The affair, perhaps, had no foundation, but in the imagination of the queen of Bohemia, who might have trumped up this ſtory from public report and ſecret intelligence, attempting, by the alarming tale, to ſet Charles againſt a faction who had ever ſhewn themſelves her inveterate enemies.

CHAP. VI.

Parliament.—Strafford impeached of high-treaſon.—And others.—Windebank flies.—Laud accuſed.—Wren and Pierce proſecuted.——Patents for monopolies cancelled.—Ship-money declared illegal.—Finch accuſed of high-treaſon:—Flies.—Judges accuſed.—Judge Berkley ſent to priſon.—Bill for triennial parliaments.—Trial of Strafford.—Attempt to debauch the army.—Plot diſcovered.——Proteſtation.—Bill for continuing the parliament.——Strafford's execution.—His character.

ENGLAND had for a long ſeries of years ſuffered her princes to exert a very unconſtitutional authority over her: the tyranny of Charles

Charles was borne with a patience which gives us a deſpicable idea of the temper of the nation during the firſt fifteen years of that prince's reign. The Scots at length broke the chain of paſſive obedience, which had ſo long faſcinated their neighbors: The ſpirit of the Engliſh conſtitution, which had been reſtrained by the Tudors, and totally ſuppreſſed by the Stewarts, burſt from its confined ſtate with energy; like a mighty torrent, contemning the weak bounds of of art, it broke through regal reſtraint, and the people with one voice demanded a parliament. This their privilege of legiſlation extorted from the crown, they were careful in whoſe hands they ſhould truſt the precious depoſit. The court, notwithſtanding its utmoſt efforts, was unable to make any part in the enſuing elections: ſo ſtrong was the ſenſe the people had of their paſt ſufferings, ſo dear to them the proſpect of recovering their loſt Liberty, that the votes univerſally ran in favor of thoſe whoſe actions and ſufferings proclaimed their attachment to popular privileges. On theſe principles, patriots were returned, whoſe number, virtues, and abilities, were greater than had ever been convened together in any age or country. On this parliament, which the people had choſen to redreſs their wrongs, and to execute popular plans, left imperfect by the abrupt diſſolution of other aſſemblies; on this parliament, ſummoned at a time of univerſal diſcontent, did the King, by his neceſſities, entirely depend. Anno 1640.

Strafford was ſenſible of what irreſiſtable powers the leaders of the oppoſition would be poſſeſſed; and earneſtly requeſted the King to permit him to go back to Ireland, that he might there take meaſures for his majeſty's ſervice, and ſecure Whitlock, p. 36.

Anno 1640. ſecure his own perſon from the reſentment of his enemies. Charles, notwithſtanding the mortifications he had undergone the laſt three months of his reign; notwithſtanding the apparent union of the Scotch mal-contents with the majority of his Engliſh ſubjects; yet fondly imagined, that there was ſomething in his kingly capacity which could withſtand, if not over-power, the rage of the popular party. He told Strafford, that his counſel and preſence would be neceſſary to him; that as he was King of England, he had power to ſecure him from danger; and that the parliament ſhould not touch one hair of his head. Strafford, contrary to his own conviction yielded to his maſter's entreaties, and conſented to come to London after he had ſettled the neceſſary affairs of his army *.

Meeting of parliament. On the third of November the parliament met; and ſuch was the active ſpirit of the times, that the houſe of Commons was almoſt full at the very opening of the ſeſſion. The King, as if afraid or aſhamed to meet the public eye, refuſed to ride in his accuſtomed pomp, and went privately in his barge to the Parliament ſtairs. In his ſpeech to both houſes, he reflected on the incredulity of thoſe who refuſed to truſt his perſonal aſſurances in regard to the deſigns of the Scots. He recommended, with ſome warmth, the chaſing the rebels out of the kingdom; told

* Clarendon tells us, that theſe affairs were to ſuppreſs the mutinious ſpirit of the army, and to diſpoſe the county of York towards the King's ſervice; that in both theſe buſineſſes Strafford met with great mortifications: The officers repaired to London to ſerve in parliament, in defiance of his authority, when he had denied them leave of abſence; and thoſe gentlemen of the county who had moſt depended on him withdrew their attendance, and entered into a combination with his enemies. *Clarendon's Hiſt.* vol. I. p. 126.

them

them he was reſolved to put himſelf freely and clear- Anno 1640.
ly on the love and affection of his Engliſh ſubjects; and promiſed an hearty concurrence in redreſſing their juſt grievances: He offered them a full and circumſtantial account of affairs, if they deſired it; he recommended to them to provide for the payment of his army, which muſt otherwiſe be diſbanded, whilſt that of the rebels was kept on foot; and laſtly, conjured them to lay aſide all ſuſpicion; for it ſhould not be his fault if this was not a happy parliament *. When the King had finiſhed his ſpeech, the lord-keeper Finch began a long detail of the ſtate of affairs: He juſtified the King, and dwelt much on the ill behavior of the Scots; but took care to compliment the city of London on their readineſs to advance the required loan: He concluded with expatiating on the dangers of the nation, and the miſery the Northern counties muſt continue to ſuffer, if the parliament did not effectually co-operate with the King †.

* This ſpeech of Charles breathes a greater air of frankneſs than he had ever before uſed; but it was not in the power of words to divert the reſolutions of this aſſembly. Clarendon tells us, that before the meeting the members made no ſcruple to avow their intention of pulling up the cauſes of grievances by the roots; at the ſame time declaring, that if all men would do their duty the event muſt be happy.

† In this long harangue he did not omit to flatter the King and his family with much fulſome panegyric: He told the Commons to wipe the glaſs, and wipe their eyes, and then they would ſee their king a king of exemplary piety and juſtice, of rare endowments and abilities of nature, of unparalleled moderation in great affairs; his other part, the queen, was a mirror of virtue, from whom, ſince her happy arrival, no ſubject ever received other than gracious and benign influence. In the courſe of this elogium, he ran into the King's error, and avowed the influence the queen had over the public counſels, by alleging, that none could more co-operate to the happy ſucceſs of this parliament than her majeſty.

Anno 1640. Charles had fixed on this creature Sir Thomas Gardiner to be appointed ſpeaker; but he had the mortification to find that he was not returned to ſerve as a member of the houſe*. The election fell on Mr. Lenthall, a lawyer of narrow drudging abilities, inoffenſive in his conduct, and pitched on by the King, becauſe he had never ſignalized himſelf in oppoſition to the government of church or ſtate.

Nov. 5. Lenthall, in his addreſs to the throne, expatiated on the utility of parliaments: "They bound the crown to the ſacred temples, he ſaid, and freed majeſty from the interpretation of miſdoing." He did not forget to put the aſſembly in mind of the treaſon intended to be perpetrated againſt the two houſes of parliament by the Roman-Catholics. In the courſe of his ſpeech he aimed a blow at the judges, whom he compared "to ciſterns of fair water, wherein each deviation, each wrinkle was diſcernible."

The King had very unadviſedly termed his Scotch ſubjects Rebels; and, notwithſtanding the treaty then in agitation, recommended the chaſing them home. When the Commons were withdrawn, he deſired the Lords to relate to the lower houſe thoſe great affairs for which they were called together; and again termed the Scots Rebels; talked of making them know their duty, and ſending them home whether they

majeſty. He adviſed the Commons to moderate counſels, in the following trope; "Sail, ſaid he, between the tropics of moderation, that there be no declenſion from the pole of ſecurity."

* This man, though recorder of London, was rejected with diſdain by that city, and other places he had tried in vain. This is a ſtrong inſtance of the activity and ſtrength of the popular party.

would

would or no. This intemperance of ſpeech gave great offence to the majority in both houſes. The Commons had no ſooner ſettled the ceremony of a faſt, than immediately they entered upon buſineſs: Large committees were appointed for privileges, for elections, for religion, for grievances, for courts of juſtice, for trade, and for Iriſh affairs. Such a multiplicity of complaints poured in upon them, that theſe were ſubdivided into forty leſſer committees. Every hour brought freſh proofs of the general diſcontent of the nation, beſides petitions in behalf of Burton, Prynne, Baſtwick, Lilbourn, Leighton, and other private ſufferers, which were all favorably received *; not a county which did not ſend up a long liſt of grievances. Theſe were preſented to the houſe by their ſeveral repreſentatives.

Anno 1640. Parl. Hiſt. vol. IX. p. 33, & ſeq.

The lord Digby, member for Dorſetſhire, related the diſcontents of that county by word of mouth: "I would not have you think, ſaid he, that I ſerve for a land of Goſhen; that we live there in ſunſhine, whilſt darkneſs and plagues overſpread the reſt of the land. As little would I have you think, that being under the ſame ſharp meaſure as the reſt, we are either inſenſible, or that the ſhire wanteth a ſervant to repreſent its ſufferings boldly." After enumerating the heads of thoſe complaints himſelf and partner had received from their conſtituents on the day of election, ſuch as ſhip-money, preſſing ſoldiers, military taxes, monopolies, and the new canons, he thus purſued his diſcourſe: "Doth not every parliament-man's heart riſe to ſee the prelates thus uſurp to themſelves the grand pre-eminence

* When a queſtion was put relating to a conſiderable grievance, not one member offered to put a negative. *Parl. Hiſt.* vol. IV. p. 108.

Anno 1640. of parliaments, the granting ſubſidies; and that under ſo prepoſterous a name as a benevolence, for that which is a malevolence indeed? Who can think with patience on ſuch an enſnaring oath as that the new canons enjoin? where, beſides the ſwearing ſuch an impertinence as that things neceſſary to ſalvation are contained in diſcipline; beſides the ſwearing that to be of divine right which the learned never pretended was ſo, as the arch things in our hierarchy; beſides the ſwearing not to conſent to the change of that which the ſtate may upon great reaſon think fit to alter; beſides the bottomleſs perjury of an *et cætera*; men muſt ſwear that they ſware freely and voluntarily what they are compelled unto; and laſtly, that they ſwear that oath in the literal ſenſe, whereof no two of the makers themſelves, that I have heard of, could ever agree in the underſtanding. For thoſe particular heads of grievances whereby our eſtates and properties are radically invaded, it hath been a metaphor frequent in parliament, and, if my memory fail me not, was made uſe of in the lord-keeper's ſpeech at the opening of the laſt, that what money Kings raiſed from their ſubjects it was but as vapors drawn up from the earth by the ſun, to be diſtilled upon it again in fructifying ſhowers. The compariſon, Mr. Speaker, hath held of late in this kingdom too unluckily: What hath been raiſed from the ſubject by thoſe violent attractions hath been formed, it is true, into clouds to darken the ſun's luſtre, and hath fallen again upon the land, but in hail-ſtones and mildews, to batter and proſtrate our liberties, to blaſt and wither our affections." Lord Digby concluded his ſpeech with a motion, that a remonſtrance ſhould

should be presented to the King, clearly pointing out the pernicious authors of public calamities. Anno 1640.

Sir John Colepeper, one of the members for Kent, expatiated on the public evils, and the particular ones of his county. Mr. Grimstone observed, that this was the age which produced Achitophels, Hamans, Woolsies, Empsons, Dudleys, Tressilions, and Belknaps, monsters of all sorts. Mr. Bagshaw asserted, that the honor of a king consisted in the wealth of his people; that to make a people rich, they must have ease and justice; ease in their consciences from the bane of superstition, the tortures of strange oaths; ease in their persons from illegal arrests and imprisonment; in their lands from forests where never deer fed; from depopulations where never farm was decayed; and from inclosures where never hedges were made. They must have justice, or they could not subsist; if the streams of justice were by unrighteousness turned into gall and wormwood, or by cruelty into blood, the people who drank of those brooks must needs perish. Mr. Bagshaw observed on the strictness of the oath the judges were obliged to take, and on the infringements of that oath. "It will be never better times, said he, if the authors of these evils go unpunished; during parliament, like frozen snakes, their poison dries up; but let the parliament dissolve, and then their poison scatters abroad, and does more hurt than ever. What the plaister will not do must be done with the saw: Let them be cut off in their wickedness who have framed mischief as a law; let the violation of the statute of monopolies, and the Petition of Right, be made felony, or premunire at the least; and in the interim let the authors of our miseries be made examples of punishment."

Anno 1640. The eminent ſpeakers did not fail to repreſent the national grievances with the high coloring of the moſt lively eloquence: But the houſe, though ſufficiently warmed with the diſcuſſion of theſe topics, was at preſent too much ingroſſed on a very particular and intereſting point to come to any reſolutions on theſe general heads. Sir John Clotworthy, an Iriſh gentleman, on the very firſt day of the Commons entering on buſineſs, had drawn ſuch a picture of the tyrannical adminiſtration of the kingdom of Ireland, as increaſed the prejudices of the houſe againſt its already-deteſted governor.

Clarendon, vol. I. p. 137. On the eleventh of November, when it was certainly known that Strafford was arrived in London, Mr. Pym, in a long diſcourſe in which he enumerated all the grievances of the nation *, ſaid, "If any thing could increaſe their indignation againſt the enormous and criminal project which had been formed of ſubverting the laws and liberties of the kingdom, it would be to find, that the conſtitution had been endangered by the worſt of miniſters under the reign of a pious and virtuous King. We muſt enquire, added he, from what fountain theſe waters of bitterneſs flow; and though doubtleſs many evil counſellors will be found to have contributed their endeavors, yet there is one who claims the guilty pre-eminence, that is Strafford; a man who, in the memory of many preſent, hath ſat in this houſe an

* In this enumeration, Mr. Pym mentions the ſale of nuiſances: "The King, ſaid he, is to take care of the public commodities and advantages of the ſubject, as rivers, highways, common-ſewers, by ordinary writs *ad quod damnum*; but now it is done by a courſe extra-judicial, by enforcing compoſitions; ſo if a nuiſance is compounded for, it is a hurt to the people; if no nuiſance, then it is uſed to the party's prejudice." *Parl. Hiſt.* vol. IX. p. 65.

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earneſt vindicator of the laws, and a moſt zealous aſſertor and champion for the liberties of the people; but it is long ſince he turned from theſe good affections, and, according to the cuſtom of apoſtates, is become the greateſt enemy to the liberties of his country, and the greateſt promoter of tyranny any age hath ever produced." Sir John Hotham, a Yorkſhire gentleman, and others, ſpoke to the ſame effect; and after many hours ſpent in inveighing againſt this notorious criminal, the doors having been previouſly locked to prevent diſcovery of the intended purpoſe, when the reſentment of the houſe was inflamed to its higheſt pitch, it was ſuddenly moved, that the earl of Strafford ſhould be immediately impeached of high-treaſon. Anno 1640.

This motion was received with univerſal approbation; nor had there been in the whole courſe of the debate one perſon who offered teſtimony in favor of the offender. Lord Falkland, a man greatly bigoted to forms, propoſed that the particulars which had been mentioned ſhould be digeſted by a committee before accuſation; declaring at the ſame time, that he was fully ſatisfied there was enough for a charge. Pym ſoon removed this interruption by telling Falkland, that the delay he propoſed would probably blaſt all their hopes; that the earl's power with the King was ſo great, that when he ſhould learn his wickedneſs was diſcovered, he would immediately procure the diſſolution of the parliament, or attempt ſome other deſperate meaſure for his preſervation; whereas, if he was unexpectedly impeached of high-treaſon, the lords in juſtice would be obliged to commit him to ſafe cuſtody, and thus he would be ſequeſtered from having acceſs to his majeſty. The Commons, convinced

Anno 1640. The Commons impeach Strafford of high-treaſon.

by this argument, voted the accuſation; and Mr. Pym was choſen to carry it up; and, to ſhew their unanimity on this point, almoſt the whole body attended the meſſenger.

Strafford was at this time in the houſe of Peers: It is conjectured, that he had an intention this day to accuſe the lord Say and other members of both houſes, who were thought to have held a correſpondence with the Scots. He found the Lords in a debate which took them up a conſiderable time*; and whilſt he was waiting for an opportunity to addreſs them, Mr. Pym appeared at the bar, and, in the name of all the Commons of England, impeached him of high-treaſon, and deſired that he might be ſequeſtered from all councils, and be put into ſafe cuſtody. No ſooner was Mr. Pym retired, than the Lords, with almoſt one voice, called upon Strafford to withdraw. He having obtained leave to be heard, endeavored to influence the Lords, by repreſenting to them, that it would be of bad conſequence to their privileges and birth-right, if, upon ſuch a general charge, they ſhould ſuffer a peer of the realm to be committed to cuſtody, and deprived of his ſeat in parliament. Potent as theſe reaſons muſt appear to an ariſtocratical aſſembly, yet on this occaſion they had not the intended effect: The Lords, with very little debate, reſolved he ſhould be committed to the uſher of the black rod, to remain under his care till the Commons ſhould bring in a particular charge. Upon his knees, at the bar of the houſe, was this determination pronounced to him. The lord-keeper having performed this office, Strafford was taken away by the uſher; and Mr. Pym

* The debate was concerning the Scotch treaty.

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was called in, and informed, that the Lords had complied with the desire of the Commons. Anno 1640.

Liberty had now began her triumphant course; her inveterate enemy was, on the first attack, subdued. The arrogant Strafford, who the year before entered the upper house with the parade of a conqueror, and whilst he related the wonders of his Irish administration, was received by the Lords with applause for the supposed wisdom of his conduct, and who this very day had entered that assembly with imperious thoughts, and disdainful sentiments against the Commons, was in an instant, by the enemies he despised, reduced as a criminal to receive on his knees the sentence of imprisonment. The Commons sent over to Ireland for Sir George Radcliffe and Sir Robert King, to appear as witnesses against Strafford; but on being informed, that Radcliffe had been the tool which Strafford had made use of to execute all his infamous purposes, they likewise impeached him of high-treason *, and secured his person. Mr. Pym, with his usual accuracy, in a conference with the Lords on this subject, made this distinction on the nature of the corruption which had influenced these ministers: "In the crimes committed by the earl, said he, there is haughtiness and fierceness: in those of Sir George Radcliffe more of baseness; having resigned and subjected himself to be acted upon by the corrupt will of another. The earl of Strafford hath not

* He had been already impeached of high-treason by the Irish house of Commons. Audley Mervin, who carried up his impeachment to the Irish Peers, told them, that his treasons had transcended so much all former ones, that they seemed to be but petty-larcenies in respect of his. In this speech of Mervin he complains, that the clause in the Irish address relating to Strafford was fraudulently inserted. *Rushworth*, vol. IV. p. 214.

Anno 1640. been bred in the ſtudy of the law, and having ſtronger luſts and paſſions to incite, and leſs knowledge to reſtrain, might more eaſily be tranſported from the rule; but Sir George Radcliffe, in his natural temper and diſpoſition being more moderate, and by his education and profeſſion better acquainted with the grounds and directions of the law, was carried into his offences by a more immediate concurrence of will, and a more corrupt ſuppreſſion of his reaſon and judgment."

The proceedings of the houſe of Commons were equally quick in regard to other criminals: they had examined two meſſengers, Newton and Gray, and the keepers of the priſons about London, on the very day of Strafford's impeachment; and ſecretary Windebank was ordered to anſwer for the many interruptions he had given to the proceſſes againſt prieſts and Papiſts. This delinquent, who had been formerly Laud's creature, and promoted to the office of ſecretary by that prelate, had ſo entirely devoted himſelf to the queen, that he became, if not a Papiſt himſelf, a profeſt patron of that ſect: he not only protected prieſts in his houſe, but terrified the meſſengers by threats from moleſting them. One of the articles in his impeachment mentioned ſeventy-four letters of grace to Recuſants, ſigned by his own hand: another was, ſixty-four prieſts diſcharged from the Gatehouſe, twenty-nine of the number by his verbal order. Windebank was in the houſe when theſe warrants of diſcharge were produced; whilſt the matter was debated, he was ordered to withdraw, and finding that the proofs would be very ſtrong againſt him, he retired to his own houſe, and fled the kingdom the next morning. From Calais he wrote a letter to the earl of Pembroke, wherein, according to the

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cuſtom of other offending miniſters, he vindi- Anno 1640.
cated himſelf on the unconſtitutional plea of having committed offences in obedience to his maſter's commands *.

The public did not long languiſh for a parliamentary proſecution againſt the objects of their extreme hatred. The prelate Laud, that declared zealot for tyranny and perſecution, could not long eſcape in the ſtrict ſcrutiny which was now making concerning grievances: After a long debate on the new-made canons, it was reſolved, that they did not bind either the clergy or the laity of the land; that the ſaid canons and conſtitutions contained in them matters contrary to the King's prerogative, to the fundamental laws and ſtatutes of the realm, the rights of parliament, the property and liberty of the ſubject; and were matters tending to ſedition, and of dangerous conſequence: it was reſolved alſo, *nullo contradicente*, that the contribution granted to the King by the clergy in the ſeveral convocations holden at London and York in 1640, were contrary to the laws, and ought not to bind †. In the debate previous to theſe reſolutions, Sir Edward Deering, one of the mem-

* Windebank had obtained a diſcharge from the King of all penalties which he might incur from his conduct in regard to Recuſants. He got ſafe out of the kingdom by a mandate, ſigned by the King, to ſuffer him to paſs without moleſtation. His papers were ſecured from ſearch by Cottington; among thoſe which came to light were found notes relative to an union with the church of Rome. *Prynne's Introduction to the Trial of Laud*, p. 124. 131. 146.

† Many of the inferior clergy petitioned againſt the power the convocation had uſurped, of taxing their brethren without the authority of parliament. The penalty which had been impoſed for non-payment was, deprivation of their function, to be ſtripped of their freehold, and excommunication. *Kennet's Compleat Hiſt. of Eng.* vol. III. p. 103.

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Anno 1640. bers for Kent, a man who poſſeſſed volubility in ſpeaking, and who had taken ſome pains to attain a knowledge of the nature and grounds of thoſe pretenſions of the prelates which were now become the ſubject of diſpute, made a long ſpeech, in which he expoſed all the palpable objections which lay againſt the convocation or ſynod, as they termed themſelves. He called it a conventional, ſynodical aſſembly of commiſſioners, a threefold chimera, a monſter to the law of the land, and a Cerberus to the religion. He entered into a deep diſcuſſion on ſynods, and alleged, that from the time of the apoſtles they were eccleſiaſtical councils, choſen by the free voice of clergy and laity; that even the Roman-Catholics acknowledged, that the church could not be repreſented if the laity were excluded; for the acts of national ſynods being binding to the whole nation, it could not juſtly be ſo if the laity had no ſhare in the conſultation, or choice in the conſulters.

Rushworth, vol. IV. p. 100.

Mr. Nathaniel Fiennes, ſon to the lord Say, a young man of good parts and great reading, made a long, yet judicious harangue, on the enormities which were in the canons. In the firſt, he ſaid, the convocation had aſſumed a parliamentary power in a very high degree: they had not only defined what the power of the King was, what the liberty of the ſubject, but had forbidden perſons to ſpeak in any other way than according to their definition. He aſſerted, from the authority of their own text, the ſacred ſcriptures, that all magiſtracy was the ordinance of man: "But theſe divines, continued he, have an aim in teaching that kings are an ordinance of God; for then they muſt receive the manner of their government from the preſcript of God's word

word; and conſequently, if there is no text in either of the Teſtaments, that kings may not make laws, nor lay impoſitions without parliaments, they may do it out of parliament. In the ſecond canon they have alſo aſſumed to themſelves a parliamentary power, to appoint holidays contrary to the expreſs words of the ſtatute. In the canon againſt ſectaries there is an eſpecial proviſo, that it ſhould not derogate from any ſtatute or law made againſt them; as if their canons had power to diſannul an act of parliament. In the fourth canon, againſt Socinianiſm, they determine an hereſy not determined by law; a point expreſly reſerved to a parliamentary determination: in this canon, for the moſt trifling offences, ſuch as bringing a book over from beyond ſea which differs from the diſcipline of the church of England, men are to be excommunicated *ipſo facto*, and lie under the ſame penalty as if they had maintained an opinion contrary to the moſt material point of faith. In the ſixth canon, they have undertaken to impoſe new oaths on the ſubject, a power of an higher nature than to make a law; for a law binds no longer than till another law is made, or whilſt the perſon reſides in the land; whereas an oath binds for a man's life." Mr. Fiennes proved, that thoſe canons which had the moſt favorable appearance carried in them a great degree of malignancy, and moved that the houſe would proceed to condemnation. Anno 1640.

The committee appointed to prepare the votes concerning theſe matters, had particular directions to conſider how far the archbiſhop of Canterbury had been an actor in theſe proceedings; and farther to examine what part he had acted in the great deſign of the ſubverſion of the laws and religion of the realm; and to prepare and draw up a charge againſt him, and ſuch others

Anno 1640. others as ſhould appear offenders in theſe particulars. This was the prelude to Laud's impeachment: Complaints poured in on all ſides; he was accuſed by the Scotch commiſſioners of being the prime cauſe of thoſe innovations in their religion which had occaſioned the preſent commotions; letters were produced which had paſſed between him and the Scotch biſhops: Theſe proved, that he had for ſome years directed the eccleſiaſtical affairs of that kingdom; and, by the force of menaces and promiſes, had maintained an high degree of authority over the epiſcopal order. On the report of their committee, the houſe of Commons did not heſitate to accuſe him to the upper houſe of the crime of treaſon. Mr. Holles was appointed to carry up the meſſage, and the Lords immediately committed him to the cuſtody of their uſher.

Laud accuſed of high-treaſon.

On this accuſation, Laud deſired leave to ſpeak: He entered into a proteſtation of his innocency, and had the imprudence to ſay, that there was not a member of the houſe of Commons who believed in his heart he was a traitor: for this unguarded expreſſion he was ſharply reprehended by the earl of Eſſex. He deſired to be proceeded with in the antient parliamentary way, but was checked by the lord Say for pretending to dictate to the houſe. He begged leave to recant what he had ſaid, but was refuſed. And thus this arrogant churchman, who had for many years directed almoſt every court of juſtice in the kingdom, was in a moment reduced to the condition of a criminal, and denied thoſe indulgencies and civilities which a leſs deteſted perſon of his age and rank would have found in ſuch mortifying circumſtances *. Many bitter ſpeeches

* The Lords fined him five hundred pounds for the impriſonment of Sir Thomas Howard. Sir John Lamb and Sir Henry

had been made againſt him in the lower houſe: Anno 1640.
Sir Edward Deering declared, he had exerciſed a ſupreme eccleſiaſtical power in the three kingdoms; and mentioned ſome particulars concerning his arbitrary proceedings; that he pleaded fair for a patriarchate; but if there muſt be ſuch a governor, a pope at Rome would do leſs hurt than a patriarch at Lambeth. Mr. Grimſtone ſaid, "that he was the ſty of all peſtilential filth; that it was him who had infected the ſtate and government of the commonwealth; he was the author of all the miſeries it now groaned under; he had brought in the earl of Strafford *; given the ſecretaryſhip to Windebank; and promoted Mountague, Manwaring, and all thoſe prelates who were ſuſpected of Popery; there was ſcarce any grievance or complaint in which he was not mentioned; like a buſy angry waſp, his ſting was in every thing; he was the corrupt fountain which had vitiated all the ſtreams; till that was purged, clear channels could not be expected." Laud petitioned the upper houſe for liberty to take the air; this favor was granted, with a proviſo that he ſhould do it in the company of his keeper, and not be ſuffered to ſpeak to any body out of his preſence.

The inſtruments of this prelate's tyranny did not eſcape the avenging arm of Juſtice, who had

Henry Martin were fined two hundred and fifty pounds each for the ſame cauſe.

Laud, in his Diary, makes the following obſervation on this ſentence; "In ſuch a caſe, ſay the impriſonment were more than the law allowed, what may be done for honor and religion ſake?" *Franklyn's Annals*, p. 881. *Ruſhworth*, vol. III. p. 1087.

* Strafford was brought in by the earl of Portland, and immediately patronized and promoted by Laud. *Lloyd's Worthies*, p. 22.

now

Anno 1640. now ſet up her ſtandard in both houſes of parliament. Matthew Wren biſhop of Ely, and Pierce biſhop of Bath and Wells, were informed againſt for many high crimes and miſdemeanors; ſuch as practiſing and enforcing ſuperſtition and idolatry, and perſecuting thoſe who did not ſubmit to theſe corruptions. At the deſire of the Commons, they were ordered by the Lords to give bail for ten thouſand pounds to ſtand the judgment of parliament. Every member of the late convocation was condemned to large fines; and numbers of eccleſiaſtical delinquents were ſeverely puniſhed by impriſonment, or otherwiſe, for being guilty in their ſeveral cures of perſecution and idolatry *.

The attack on the clergy did not ſtop at the puniſhment of the individuals of the order: A bill paſſed the lower houſe for diſabling biſhops, or any clergyman, from being privy-counſellors, or in the commiſſion of the peace, or to have judicial power in the Star-chamber, or in any civil court. Mortifications of all ſorts overwhelmed that body, who had been for ſome time the church triumphant. The name of the ſpiritual lords was left out in acts of parliament, and the law ran in the name of King, Lords, and Commons †. On the day appointed for a ſolemn faſt and humiliation, the whole order of temporal peers, contrary to former practice, in going to church took place of the ſpiritual. Carliſle and

Diurnal Occurrences, ed. 1641. p. 4.

* The ſeverity of juſtice was ſharpened from the reſentment of that cruel uſage which the non-conformiſts had met with in this reign. One Dr. Layfield pleaded, that he had privilege as a member of the convocation-houſe; but the Commons reſolved that he ſhould be ſent for as a delinquent, notwithſtanding his plea. *Ruſhworth*, vol. IV. p. 59.

† The clerk of the upper-houſe, in reading the bills, turned his back upon the bench of biſhops. *Hume*, vol. I. p. 264.

Morton,

Morton, two moderate biſhops, were appointed to preach; and whilſt the ſecond ſervice was reading at the communion-table, it was interrupted by the ſudden ſinging of a pſalm. Marſhal and Burgeſs, two clergymen who had been ſtigmatized with the epithet of Puritanical, preached ſeven hours before the Commons; and, as a requiſite preliminary to their receiving the ſacrament, the communion-table was removed from the Eaſt-end of St. Margaret's to the middle of the area *. This was a prelude to the following order: That commiſſioners be ſent into all counties for the defacing, demoliſhing, and quite taking away, all images or tables turned altar-wiſe, crucifixes, ſuperſtitious pictures, monuments, and relics of idolatry, out of all churches and chapels †. A reſolution paſſed, that the ſtatute made twenty-ſeven years ago in the univerſity of Cambridge, impoſing upon young ſcholars a ſubſcription according to the thirty-ſixth article of the canons made in the year 1603, is againſt law and the liberty of the ſubject, and ought not to be preſſed upon any ſtudent or gratuate whatſoever ‡. A committee

Anno 1640.

Ruſhworth, vol. IV. p. 149.

* Williams, dean of Weſtminſter, told the committee of the Commons who came to him on this buſineſs, that he would readily obey the Commons, and do the like on the requeſt of any pariſhioner in his dioceſe.

The lord-mayor, and the juſtices of peace for Middleſex and Weſtminſter, received orders from the Commons, that the ſtatutes concerning the Lord's Day ſhould be put in execution. *Ruſhworth*, vol. IV. p. 53, 223.

† Sir Robert Harley, a zealous Preſbyterian, to whom the execution of this order was committed, removed all croſſes out of ſtreets and markets. *Whitlock*, p. 45.

‡ Ordered, that the ſame order which was made concerning ſubſcriptions to canons for the univerſity of Cambridge, ſhall be made for the univerſity of Oxon; and the houſe doth farther declare, that neither of the univerſities ſhall be

Anno 1640. which was appointed by the Commons to take cognizance of the offences of eccleſiaſtics, and uſually denominated the committee of ſcandalous miniſters, received daily accounts of ſuch follies and enormities committed by that body, that the reſentment of the houſe was continually ſupplied with new fuel *.

The preſent temper of the Commons encouraged the public to hope an entire releaſe from the ſpiritual tyranny they had ſo long endured. The citizens of London, to the number of fifteen thouſand, ſubſcribed a petition againſt the hierarchy and government of the church of England. To the petition were annexed twenty-eight articles, containing objections to the epiſcopal office: thoſe objections were founded on the unlawfulneſs of the order, the vices of thoſe who compoſed it, and the abuſes with which it had been exerciſed. This petition was preſented to the houſe by alderman Pennington, and was followed by three more of the ſame kind; one from Gloceſter, one from the inhabitants of the county of Kent, and another ſubſcribed by ſeven hundred miniſters. Theſe petitions were very warmly attacked by the lord Digby, and with much learning defended by Mr. Fiennes: the houſe had the complaiſance to order, that they ſhould be committed, and in convenient time debated.

Smollett's Complete Hiſt. vol. VII. p. 176. Diurnal Occurrences, p. 33. Ruſhworth, vol. IV. p. 170, & ſeq.

be ſubject to the injunction of doing reverence to the communion-table. *Journals of the Commons*, vol. II. p. 191.

* A complaint was made againſt a miniſter for ſaying, that Puritans were damned rogues, becauſe they refuſed the oath; he hoped they would hang in Hell; and wiſhed himſelf in Hell to be their hangman; and taught in his pulpit, that every one ought to learn to dance, for thoſe who could not dance would be damned. Another complaint was exhibited, that in a certain pariſh in the Weſt country two days were ſpent in the dedication of an altar-cuſhion and pulpit-cloth. *Diurnal Occurrences*, p. 32, *& ſeq.*

Hitherto the King ſeemed to have reſigned himſelf to the ſudden fate which had ſo unexpectedly fallen upon him—In one moment of time reduced, from governing with an abſolute ſway, to be the moſt inſignificant and the moſt impotent part of the legiſlative power: But rouſed by the danger which now threatened his beloved epiſcopacy, he ſent for the two houſes to Whitehall, and told them, that he intended to reform all innovations in church and ſtate, and to reduce matters of religion and government to what they were in the pureſt times of queen Elizabeth; but that ſome men, encouraged by the ſitting of this parliament, more maliciouſly than ignorantly, put no difference between reformation and alteration of government: hence it came that divine ſervice was irreverently interrupted, petitions were tumultuouſly given, and much of his revenue detained and diſputed. "Now, added he, I put great difference between reformation and alteration of government: though I am for the firſt, I cannot give way to the latter. I will not ſay that biſhops may not have over-ſtretched their power, or encroached upon the temporal, which, if you find, correct and reform the abuſe according to the wiſdom of former times; and ſo far I am with you: nay farther, if upon ſerious debate you ſhall ſhew me that biſhops have ſome temporal authority inconvenient to the ſtate, and not ſo neceſſary to the church for the ſupport of epiſcopacy, I ſhall not be unwilling to perſuade them to lay it down *. Yet by this you muſt un- Anno 1640.

* Rapin obſerves, that the King ſeemed to banter the Commons in ſaying, that if they would ſhew him the biſhops had any temporal authority inconvenient to the ſtate he ſhould not be unwilling to deſire them to lay it down; as if the parliament ought to have expected, from the pure con-

Anno 1640. derſtand, that I cannot conſent to the taking away of their voice in parliament, which they have antiently enjoyed under ſo many of my predeceſſors, even before the Conqueſt, and ever ſince, and which I conceive I am bound to maintain, as one of the fundamental inſtitutions of this kingdom."

All the partizans of the church-faction, and thoſe of monarchical principles, have been very liberal in their commendations of this ſpeech, and in their cenſures of the parliament for not ſeizing the opportunity ſo graciouſly offered by the King, of effecting a thorough reconciliation of parties, of piecing up the machine of government, and ſuffering it to run on quietly on its old axis. Such are the ſentiments of thoſe who hold in veneration the regal and hierarchical tyranny which ſo long prevailed in this country. To the ſenſible part of both houſes of parliament ſurely it muſt have appeared highly ridiculous to have heard the King, who, by his exerciſe of the power he found the crown poſſeſſed of at his acceſſion to the throne, had fully expoſed the abuſe to which it was liable; who, by the general deteſtation his tyrannical government had occaſioned, was in a manner unkinged, and all his prerogatives at the mercy of an able popular parliament; to hear him, at ſuch a juncture, and in ſuch circumſtances, offer, as a favor to his people, to concur with them in meaſures to bring things back to their old channel, and to leave him in a ſituation to run another career of tyranny, with power to perſecute every individual who had entered into any active meaſure againſt the malignancy of his prerogative.

deſcenſion of the biſhops, the reformation of an authority prejudicial to the ſtate; a maxim directly contrary to the principles they then acted on. *Rapin*, vol. XI. p. 80, *& ſeq.*

Neither

Neither houſe of parliament took any notice of the King's ſpeech: They joined in a remonſtrance, which ſhewed how many prieſts had been diſcharged within a few years; that the pope had a nuncio or agent at Rome reſident in the city of London; that the Papiſts as publicly reſorted to hear maſs at the queen's palace as others did to attend their pariſh-churches. For theſe reaſons, they inſiſted on the neceſſity of the laws being put into execution againſt Jeſuits and ſeminary prieſts; and that one Goodman, a prieſt, ſhould be left to the juſtice of the law. To this the King thought fit to return anſwer, that he would provide againſt Jeſuits and prieſts, by ſetting forth, with all ſpeed, a proclamation commanding them to depart the kingdom, under pain of being proceeded againſt according to law; that as to Roſſetti, he had no commiſſion as a nuncio, but to entertain a perſonal correſpondence between the pope and the queen: he would perſuade her to remove him, ſince the miſunderſtanding of his condition gave offence; that he would take care to reſtrain his ſubjects from reſorting to maſs at Denmark-houſe, St. James's, and the chapels of ambaſſadors; for Goodman the prieſt, he had reprieved him, becauſe, as neither queen Elizaboth nor his father avowed that any prieſts were executed merely for religion *, it might be of bad conſequence to his ſubjects and the Proteſtants abroad; but he remitted that particular caſe to both houſes. The Commons ſent an order to all the juſtices of the peace of Weſtminſter, London, and Middleſex, and all the counties in England and Wales, enjoining them to Anno 1640.

* If the law was a bad one it ought to have been repealed, and not always diſpenſed with by the authority of the King.

Anno 1640. command the churchwardens, and other officers, to preſent the names of the ſeveral Recuſants within their pariſhes, that they might be proceeded againſt according to law, notwithſtanding any inſtitution or reſtraint.

The circular letters written by the queen, by Sir Kenelm Digby, Mr. Mountague, and the body of Papiſts in London, were laid before the Commons; and Digby, Mountague, Sir John Winter, and Sir Baſil Brook, were ſtrictly examined concerning the diſpoſal of the monies raiſed, and the authority which Con and Roſſetti had from the pope. The queen ſent a letter to the Commons, informing them, that it was ſhe who had written effectually to the King to perſuade him to call a parliament; that ſince ſhe has been willing to do all good offices between the King and the people, ſhe would remove Roſſetti in convenient time; and for the reſort complained of, would be careful not to exceed that which was convenient and neceſſary for her religion. She farther obſerved, that the parliament was not ſatisfied with the manner of raiſing money at her entreaty from the Catholics; that ſhe was moved thereunto by her dear and tender regard to the King: if it was illegal, ſhe was ignorant of the law, but promiſed hereafter not to do any thing which did not ſtand with the eſtabliſhed laws of the realm. This meſſage was intended to conciliate the affections of the Commons; perhaps there was a mixture of female vanity in it: but ſurely the only probable effect it could have, was to convince the Commons of the uxorioufneſs of their monarch; that he did not act, on the moſt important occaſions, by the dictates of his own judgment; but was entirely ſwayed by the prevailing paſſion of the perſon to whom he had devoted

voted his affection. No other anſwer was returned to the queen's letter, but that the Commons gave her majeſty thanks for her gracious expreſſions. Anno 1640.

Some time after, the King ſhewed to the upper houſe a letter he had received from Goodman the prieſt; wherein he deſired to be executed, rather than live the ſubject of diſcontent between the King and people. The letter probably had the effect for which it was written, and excited feelings of compaſſion in the parliament: the Commons dropt the purſuit, and we hear nothing of Goodman's execution.

The proſecution of other kind of criminals took up, at this time, the attention of the houſe. The Commons having ſecured the two notorious offenders, Strafford and Laud, mortified the church, and put the eccleſiaſtical affairs of the kingdom in ſome train of reformation, they took into conſideration the general heads of their civil grievances; they cancelled all the patents which had been granted for monopolies, as contrary to expreſs ſtatutes; declared every one concerned in them delinquents; and expelled all their members who where monopoliſts or projectors. On the grievance of monopoliſts, Sir John Colepeper, member for Kent, made to the houſe the following ludicrous repreſentation: "The monopoliſts and polers of the people, ſaid he, like the frogs of Egypt, have gotten poſſeſſion of our dwellings; we have ſcarce a room free for them; they ſup in our cup, they dip in our diſh, they ſit by our fire; we find them in the dye-fat, waſh-bowl, and powdering-tub; they ſhare with the butler in his box; they have marked and ſealed us from head to foot. Mr. Speaker, they

Patents for monopolies cancelled, and monopoliſts cenſured.

Ruſhworth, vol. IV. p. 33, & ſeq.

Anno 1640. will not bate us a pin; we may not buy our own cloaths without their brokage: theſe are the leeches who have ſucked the commonwealth ſo hard that it is almoſt become hectical. Some of them have a vizard to hide the brand made by that good law in the laſt parliament of king James; they ſhelter themſelves under the name of a corporation."

To ſhew the privy-counſellors what the Commons thought of their paſt conduct and pretenſions, one Mr. Neville, a member of parliament, was committed to the Tower for reporting to the council what had been ſpoken in the houſe. Sir William Saville was ſent for as a delinquent on the ſame account. A committee was appointed to take into conſideration the breaches of parliamentary privilege, both in the laſt parliament, and that of the third of this reign, and eſpecially the proceedings againſt Mr. Holles, Sir John Elliot, &c. to conſider what reparations were fit to be granted to the parties grieved, and of ſome courſe to prevent the like hereafter. On the queſtion, it was reſolved, *nullo contradicente*, that the charge impoſed upon the ſubject for the providing and furniſhing ſhips, commonly called Ship-money, was againſt the law of the realm, and the ſubjects' right of property, contrary to former reſolutions of parliament, and to the Petition of Right; that the extra-judicial opinions of the judges were contrary to the ſaid laws and reſolutions, and likewiſe all the writs commonly called ſhip-writs; and the judgment in the Exchequer in Mr. Hamden's caſe, both in matter and ſubſtance. A committee was appointed to go to the ſeveral judges, to enquire of them, in what manner, and by whom, they were ſolicited

Writs of ſhip-money declared illegal. Journals of Commons, vol. II. p. 46.

or

or threatened to give any opinion or judgment concerning ſhip-money *. Anno 1640.

Theſe votes of the Commons were ſent up to the Lords by Mr. St. John, who, in a very elaborate and judicious diſcourſe, ſet forth the extreme malignancy of the impoſition of ſhip-money, determined by the judges in favor of the crown. Nalſon, vol. I. p. 705, & ſeq. "The meſſage the Commons have entruſted me with, ſaid he, is of ſo high and general a concernment, that the whole body of the kingdom, both peers and people, are intereſted in it. It is not that ſhip-money hath been levied upon us; but it is that whereby ſhip-money is claimed, which is the gift and earneſt penny of all we have. It is not that our perſons have been impriſoned for payment of ſhip-money; but that our perſons and our lives are, upon the ſame ground of law, delivered up to will and pleaſure. It is that our birth-right is loſt, and that there hath been an endeavor to reduce us to a lower ſtate than villainage. The Lord might tax his villain *de haute & de baſſe*; might impriſon him, but his life was his own; the law ſecured him that. But, my Lords, as the law is now declared, it is diſputable whether it does ſo much for us. My Lords, the ſubject of this meſſage is to preſent the ſenſe of the Commons to your Lordſhips: that the laws of the realm have been entruſted into ſuch hands as have endeavored to force upon them a contrary end to that for which they were

* A committee was alſo appointed to draw up a charge againſt the lord Finch, and the reſt of the judges in this buſineſs; to enquire alſo of the ſeveral denials of Habeas Corpus and prohibitions, their extra-judicial proceedings and opinions concerning eccleſiaſtical juriſdiction, and the court of Admiralty, their denial of legal and ordinary proceedings in caſes of juſtice, and binding the whole kingdom in one man's particular caſe. *Ruſhworth*, vol. VI. p. 89, *& ſeq.*

Anno 1640. ordained; of defenſive to turn them into offenſive; and inſtead of protecting us, to make them the inſtrument of taking from us all we have." Mr. St. John produced the opinion of the judges in the caſe of ſhip-money, and obſerved that they were enrolled in all the courts of Weſtminſter, *in perpetuam rei memoriam.* "My Lords, proceeded he, if their opinion extend only to ſhip-money, his majeſty may take what he will, and when he will; but ſhip-money is not the whole extent of them: Ship-money is due becauſe his majeſty is the ſole judge of the danger of the kingdom, and how the ſame is to be prevented; becauſe his majeſty, for the defence of the kingdom, may, at his will and pleaſure, charge his people. Upon the ſame reaſon, compulſion may be uſed for maintaining armies, caſtles, forts, bulwarks; it may be multiplied *ad infinitum.* His majeſty, in caſe of refractorineſs, may compel the doing of this; he is the ſole judge of the danger, and how the ſame is to be prevented. Whether perſonal compulſion may extend ſo far as life; whether the words, "How it is to be prevented," doth not leave the matter of it wholly in his majeſty's breaſt; I leave to your Lordſhips' conſideration." Mr. St. John obſerved, that the ſhip-writs gave authority to the ſheriffs of each county to diſtrain and impriſon, and that the judgment given againſt Mr. Hamden was a plenary execution of the opinion of the judges, and of the ſhip-writs, and was ſo binding to the ſubject, that an honorable perſon was denied any argument or debate, for no other reaſon, but that it had been adjudged already in the Exchequer. Mr. St. John related the votes of the Commons on theſe proceedings; votes paſſed *nullo contradicente*, on the conſideration of the tranſactions of the parliament held

the

the third of Charles, when the Petition of Right was framed. Anno 1640. He ſhewed, that the King's levying money on the ſubject on any pretence was in this parliament condemned; even where not only the King's honor, but the ſafety and very exiſtence of the King and people, and of the true religion abroad, were in apparent danger, and when the ſupplies could not ſtay for a parliament; when the people were aſſured, on the royal word of a king, that their money ſhould be beſtowed on thoſe public ſervices wherein every one of them, their wives, children, and poſterity, had their common and perſonal intereſt, and this in a caſe where only binding of money was expreſſed; but it became compulſory by the inſtructions to bind over to the board and impriſonment for refuſal. This was firſt reſolved in the houſe of Commons to be againſt law, afterwards by the houſe of Peers, conſented unto by his majeſty, and declared ſo in the Petition of Right.

After Mr. St. John had thus proved the illegality of ſhip-money, he proceeded to ſhew the heinouſneſs of the offence the judges had committed in giving an opinion againſt the plain dictates of the law: they did not only break their own oath, but being entruſted with the performance of this part of his majeſty's oath, were guilty of an infamous breach of truſt, and, as far as in them lay, blemiſhed the ſacred perſon of the King with the hateful ſin of perjury. Mr. St. John produced examples where baniſhment, death, and forfeiture of lands and goods, were adjudged the puniſhment of this offence, even when the tranſgreſſion was not ſo dangerous to the ſubject as the caſe in queſtion. Judgment of high-treaſon was, in a parliament of the eleventh of Richard II. given againſt judges for an opinion

Anno 1640. nion contrary to what had been ordained by act of parliament. Violence had been offered to these judges, but fear and cowardice were not thought sufficient pleas; it was but one act; if they had been put to it a second time, perhaps, they had repented, for two of them the next day declared their grief for what they had done: but the judges now in question proceeded *a pessimo ad pejus pessimo*, declared their opinion in their circuits with additions, and a year after confirmed them by an indictment in the Exchequer. Mr. St. John farther observed, that in the parliament of the eleventh of Richard II. eighteen persons of eminent rank were condemned of high-treason for acting contrary to what had been ordained by parliament; that of the eighteen eight were executed, three fled, and the rest were pardoned the forfeiture of their lives, but banished.

The interest of the Lords was in this case too apparently concerned to need the force of stimulating arguments: they did not hesitate to vote the illegality of ship-money, in the same manner as the Commons; and that, *nemine contradicente*, they ordered the records of the extra-judicial opinion of the judges to be erased out of all the courts wherein they had been enrolled, and the judgment in Mr. Hamden's case to be brought into their house, and cancelled in their presence. They likewise ordered, that a copy of what they had done should be delivered to the judges, to be published at the assizes, and that an act of parliament should be prepared concerning this matter.

Rushworth, vol. IV. p. 194, & seq.

No one was more liable to censure on these points, and indeed on all illegal measures, than the lord-keeper Finch; all his promotions had been owing to the meanness, corruption, and villainy

lainy of his conduct: He it was who, being Anno 1640.
ſpeaker in Charles's third parliament, had left the chair, and refuſed to obey the commands of the houſe; he it was who had declared publicly, that whilſt he was keeper an order of the council ſhould always with him be equivalent to a law; he it was who by perſuaſions and menaces had procured the extra-judicial opinions of the judges, in the caſe of ſhip-money, in foreſt-affairs *; in all oppreſſive practices he had been ever the moſt active agent. To appeaſe, if poſſible, the riſing anger of the Commons, which increaſed as theſe matters were ſcrutinized, Finch deſired to be heared at their bar: this was an unprecedented thing, and it could not but be pleaſing to the patrons of Liberty to ſee one of the ſatellites of the crown, who had long inſulted over the conſtitution, who had raiſed himſelf to an envied eminence by trampling on the liberties of his country, reduced to plead before that democratical aſſembly, whoſe authority, when their ſervant, he had rejected, and to whom he had very lately dictated. The keeper's requeſt was granted with little heſitation: there was a chair ſet to make uſe of if he pleaſed, and he was offered leave to put on his hat; he waved the acceptance of both theſe civilities, laid his purſe upon a ſtool placed for the purpoſe, and continued bare-headed and ſtanding all the time he ſpoke to the houſe.

He pretended to juſtify his conduct, but had nothing ſtronger to urge than that he was not the author and adviſer of thoſe things which were complained of; he denied that he had uſed per-

* He ſaid, he would make it good that all England ſtood upon foreſt-laws, except three counties. *Diurnal Occurrences*, p. 19.

ſuaſions

Anno 1640. ſuaſions or menaces to the judges *; and pretended, that in his own opinion on ſhip-money he had followed the dictates of his conſcience, and that he meant it ſhould be taken in caſes of apparent danger, when there could be no other reſource. On the foreſt-buſineſs, he ſaid, he had gone by records of Edward IV. †. Unſatisfactory as this defence of Finch's was, the humble manner in which it was delivered, with the eloquence of the pleader, moved the houſe to ſentiments of compaſſion.

Mr. Rigby, fearing the ſoftneſs which had infected his fellow members would incite them to drop the intended proſecution, honeſtly told them, that their pity was fooliſh, and their mercy cruel, if either extended to that ſilver-tongued ſyren, who had effected ſuch miſchief to the kingdom, who had recorded his injuſtice in every court in Weſtminſter. "Shall we, ſaid he, like little children, when we have been whipped and beaten, be pleaſed again with ſweetmeats; when we have been injured and abuſed, be gained again with fair words and compliments? Some birds, in the ſummer of parliament, will ſing ſweetly; but, in the winter of perſecution, will for their prey ravenouſly fly at all. We ſee, by the ſolemn ap-

* On the examinations of the judges, it appeared, that ſome of them had been ſolicited and threatened.

† He would have acted more prudently if he had gone by the ſtatute of the twenty-ſeventh and twenty-eighth of Edw. I. In Eſſex, being of the King's counſel, he procured jurors to make undue returns, and uſed threatenings to obtain a verdict for the King. People were fined or turned out of eſtates they had enjoyed for near three hundred years, for pretended encroachments on the foreſt. Afterwards, having been promoted to be chief-juſtice of the King Bench, he adviſed the juſtices in eyre to refuſe traverſe offered by the country, and all evidence but what ſhould be verbally delivered. *Ruſhworth*, vol. IV. p. 137.

pointments of our courts of juſtice, what provi- Anno 1640.
ſion the wiſdom of our anceſtors has made for the preſervation and honor of juſtice; witneſs our terms, ſeſſions, and aſſizes; the pomp and ſtate of the judges in their circuits; by the ſheriffs, knights, and juſtices attended, for the hanging a poor thief for the ſtealing a hog or ſheep; in ſome caſes for the ſtealing a penny; and very juſtly too, *in terrorem*; and ſhall not ſome of them be hanged who have robbed us of all our property, have ſheared all our ſheep?" Mr. Rigby concluded with deſiring the houſe, not to be ſo merciful to theſe wicked inſtruments as to be mercileſs to the whole kingdom. The good ſenſe of the Commons could not oppoſe the dictates of this ſeaſonable ſpeech. They voted that the lord Falkland ſhould go up to the houſe of Peers, and accuſe Finch of high-treaſon, in that he had endeavored to ſubvert the fundamental laws and government of the realm, and, inſtead thereof, to introduce an arbitrary and tyrannical government. It was ſo late in the day when this vote paſſed that the Peers had riſen: the impeachment was by neceſſity deferred; which gave the criminal time to eſcape beyond ſea.

Finch accuſed of high-treaſon.

Flies beyond ſea.

Clarendon accuſes the Commons of partiality and deſign in ſuffering theſe two guilty miniſters, Windebank and Finch, to fly the avenging arm of Juſtice; and inſinuates, that they were either biaſſed by perſonal favor to theſe criminals, or, fearing that Sir Henry Vane would be found involved in their crimes, were glad to get rid of them. Whatever was the reaſon for the conduct of the Commons, whether thoſe aſſigned by Clarendon, or whether they feared the popular tempeſt would be too ſoon appeaſed, and the people become ſatiated with blood if all the ſtate-

malefactors

Anno 1640. malefactors were brought to execution, certain it is, that if they had been desirous to secure the persons of these offenders, they would have used more caution and expedition in their proceedings against them. Finch's impeachment, which consisted of ten articles, was, notwithstanding his flight, carried up to the house of Peers, and enforced by lord Falkland: He said that Finch had committed crimes of supererogation; that high-treason was but part of his charge; these crimes pursued him through the several conditions of his life, as a silent speaker, an unjust judge, and an unconscionable keeper. Falkland observed, that Finch had endeavored to lay the subject open to the worst of invasions, that of want and poverty, by destroying Liberty, that protector of property and industry; that, if he had succeeded in making himself parliament-proof, in this wealthy and happy kingdom, there could have been left no abundance, but of grievances and discontent, and no satisfaction but among the guilty. "His crimes, said he, are treasons as well against the King as kingdom; for whatsoever is against the whole, is undoubtedly against the head. They take from his majesty the ground of his rule, the laws; they take from his majesty the principal honor of his rule, the ruling over free men; they endeavored to take from his majesty the principal support of his rule, the hearts and affections of those over whom he rules, a better and surer strength to the King than the sea is to the kingdom *.

Rushworth, vol. VI. p. 139. Diurnal Occurrences, ed. 4to. Lond. 1641, p. 36.

* Lord Falkland was the first man in the house of Commons who moved that a select committee should be chosen to draw up a charge against Finch: "If he shall be found, said he, guilty of tampering with judges against the public security, who thought tampering with witnesses in a private cause deserving of so great a fine; if he shall be found to have gone before

The Commons next ſent up an accuſation againſt Sir John Brampſtone, lord-chief-juſtice of the King's-Bench, Sir Humphry Davenport, juſtice Berkley, and juſtice Crawley. The Lords enforced them to enter into recognizance of ten thouſand pounds each to appear and anſwer before the parliament: at the ſame time they ordered, that judge Berkley, for taking inſufficient bail, ſhould pay a debt of five hundred pounds, with intereſt, which was owing to a citizen by the lord Wentworth. This infamous judge, having been found more guilty than his brethren, was, on a ſtricter examination of his conduct, impeached of high-treaſon, and, to the exaltation of Liberty and Juſtice, and the confuſion of evil miniſters, by order of the Peers, taken off his tribunal in the court of King's Bench, and carried to priſon. Lord Falkland diſtinguiſhed himſelf by a very warm ſpeech againſt the judges.

Anno 1641. The judges accuſed.

Judge Berkley ſent to priſon. Nalſon, vol. I. p. 654.

A young member, whoſe name is not recorded, poured forth very animated ſentiments on the ſame ſubject, and recommended to the houſe the exerciſe of juſtice rather than mercy. He obſerved, that the examples of Empſon and Dudley had a very happy effect on the reign of Elizabeth; that to paſs by the guilty was equal injuſtice as to puniſh the innocent; that an omiſſion of that duty would render them ſhamed in hiſtory, and curſed by poſterity: "The revenues of the crown ſold out-right, ſaid he, will ſcarce repay the loſſes of this ſuffering nation. It is,

Ruſhworth, vol. IV. p. 130.

before the reſt to this judgment, and to have gone beyond the reſt in this judgment; that in the puniſhment of it the juſtice of this houſe may not deny him the due honor to precede and exceed the reſt."

The fine lord Falkland alludes to was the ſentence Finch gave againſt Williams. *Rapin*, vol. XI. p. 56.

Anno 1640. without all queſtion, in policy that exemplary puniſhments conduce more to the ſafety of a ſtate than pecuniary reparations. The civility of our laws tells us, that Kings can do no wrong; but the ſtate is alone ſecure when the judges, their their miniſters, dare do none. We ſee the bad effect of their bold erroneous opinions: what was at firſt but corrupt law, is, by encouragement taken from their impunity, become falſe doctrine. The people are taught in pulpits they have no property; kings inſtructed in that ruinous principle, that all is theirs. It is thence deduced into neceſſary ſtate-policy, that he is no monarch who is bounded by any law: by which bad conſequences the beſt of kings hath been, by the infuſion of ſuch poiſonous poſitions, diverted from the ſweet inclinations of his own natural equity and juſtice; the very eſſence of a king taken from him, which is preſervation of his people. And whereas *ſalus populi* is or ſhould be *ſuprema lex*, the power of undoing us is marked under the ſtyle of what ſhould be ſacred royal prerogative. It is high time to make examples of this ſubverted law, bad counſel, worſe doctrine. Let no man think to divert us from the purſuit of juſtice, by poiſoning the clear ſtreams of our affection with jealous fears of his majeſty's interruption, if we look too high; ſhall we doubt his juſtice becauſe we have need of great juſtice? We may be confident the King well knows that his juſtice is the bond of our allegiance, the proof of his ſovereignty."

The whole of this ſpeech, which is long, breathes the ſame ſpirited indignation againſt the corruptions and corrupt miniſters of the times. The young orator began this addreſs to the aſſembly in a ſtyle too peculiarly modeſt and graceful

ful to paſs unnoticed: "It was a cuſtom, ſaid he, among the Romans (who, as by their power they once gave laws, ſo, by the happy ſucceſs of their long-flouriſhing government, might they well give examples to all the world) that in their ſenates the younger men ſpake firſt, partly that they might not have their weaker notions anticipated by the more knowing ſenators, and partly that the ſenate might not be diverted from the mature reſolutions of the more ancient, by the interpoſition of the younger men; they, as all free ſtates, ever allowing free members to expreſs themſelves according to their ſeveral capacities: and methinks it was a happy method; ſo the opinions and inclinations of the aſſembly being diſcovered, and ripened to reſolutions by ſuch gradations, the ſentences of the ſages ſounded as judgment, not orations; their wiſdom and gravity put a ſeaſonable period to perhaps otherwiſe endleſs diſcourſes. Their precedent encourages me: Children can point out their pain, and infant graduates in parliament may groan out the grievances of a diſeaſed commonwealth; but they muſt be doctors in the art of government who can apply apt remedies to recover it." Anno 1640.

During the late tyrannical adminiſtration, very illegal powers had been exerted by the lieutenants and deputy-lieutenants of counties: the perſons who had ſo acted were declared delinquents. The ſheriffs who had aſſeſſed individuals on the writs for ſhip money, though obliged to it under ſevere penalties, incurred the ſame cenſure. This may be thought a very rigorous procedure; but as the King, by the maxims of law, could do no wrong, his miniſters and ſervants, of whatſoever degree, were by thoſe maxims culpable, in caſe of any violation of the conſtitution. Cowardice, Lord-lieutenants, ſheriffs, &c. employed in levying ſhip-money, declared criminal.

Anno 1640 or the deſire of ſcreening one's perſon or fortune from damage, ought never to be admitted as a ſufficient excuſe for crimes of that high nature: on theſe principles, all the farmers and officers of the cuſtoms who had been employed in levying tonnage and poundage were declared criminal. They were glad to compound for a pardon, by paying a fine of an hundred and fifty thouſand pounds. Every arbitrary ſentence of the Star-chamber and High commiſſion court was reverſed; whilſt all thoſe who had any hand in them were ordered to make reparation to the parties wronged *. All perſons who had concurred in theſe oppreſſions, were voted to be liable to the penalties of the law.

* Among thoſe perſons, whoſe loſſes and injuries the Commons endeavored to repair, Leighton was given ſix hundred pounds, and made warden of Lambeth-houſe, converted into a place of confinement for the ſtate delinquents. Lilbourn, Pryne, Baſtwick, Burton, and others, were not only reinſtated in their ſeveral profeſſions, and their ſentences reverſed, but great damages were decreed them. When the three laſt-mentioned ſufferers landed in England, they were received with the higheſt demonſtrations of affection, attended on the road by a great confluence of people, and their charges borne with magnificence. On their approach to any town, the inhabitants welcomed their arrival with ſhouts of applauſe. Several miles from the city of London, they were met by the zealots of their party; boughs were carried before them, the roads were ſtrewed with flowers, and the air reſounded with the acclamations of the people, who mingled with expreſſions of joy invectives againſt the prelates for their barbarous cruelty, exemplified in the perſons of the three triumphers. The reception of theſe men ſufficiently marks that formidable reſentment which the public had ſo juſtly entertained againſt the government. Among other ſufferers, Sir Pierce Croſbie was reinſtated, and the King deſired to reſtore him to his place of privy-counſellor in Ireland. Mr. Smart, prebendary of Durham, was reſtored to his prebend, and the dean and chapter was ordered to preſent him to the vicarage of Aycliffe. *Nalſon*, vol. I. p. 512. *Hume*, vol. I. p. 260. *MS. Journals of the Lords.*

Thus

Thus at length, by the genius of the conſtitution, the wiſdom and perſeverance of the houſe of Commons, with the concurrence of other favorable accidents, royal power, which had almoſt reached the ſummit of abſolute ſovereignty, was in a moment cruſhed, and the maxims of rigid Law and Liberty eſtabliſhed throughout the realm; and this without any violence or diſorder. The aweful tribunal, which was newly erected in the land, ſtruck the guilty with diſmay. The miniſters and tools of power, finding themſelves involved in the general determinations of the Commons, were glad, by an inoffenſive conduct, to compound for paſt crimes. And thus the dependants of the court, that contemptible yet noxious tribe, were, by the fear of a deſerved puniſhment, deterred from making any oppoſition to the new ſyſtem of government. Anno 1640.

To the honor of the upper houſe, it muſt be remembered, that they had been more than paſſive in this reformation, as if they were deſirous of ſetting an example to the Commons in vindicating the honor and privilege of parliament. On the very firſt days of their entering on buſineſs, a motion was made, that whereas two lords of that high and honorable court had had their ſtudies and pockets ſearched for papers, conſideration might be had, whether it was not a breach of privilege; eſpecially as it was done ſoon after the diſſolution, and within the time of privilege of parliament. On the relation which the earl of Warwick and the lord Brooke made of this matter, the houſe committed to the Fleet Sir William Beecher clerk of the privy-council, and ſent a meſſage to the Commons to deſire a conference with them on the buſineſs, before they proceeded againſt their members the ſecretaries Vane and

Anno 1640. Windebank, by whom the warrants for ſearching the two peers were ſigned. Buſineſs of great importance crouding upon both houſes, the affair was dropped. Beſides this ſpirited exertion, the Lords ordered two books, written by Dr. Pocklington, entitled, Sunday no Sabbath, and *Altare Chriſtianum*, to be burnt; addreſſed the King on the reſtraints laid on the embarkation of the ſubjects for the new colonies; on his having altered the tenure by which the judges held their offices, from *quamdiu ſe bene geſſerint* to *durante bene placito noſtro*; ordered coat and conduct-money to be repaid; made the petition for a parliament, preſented by the Lords at York, an act of their houſe; returned them thanks for that ſervice; and ſeconded every popular meaſure which had been reſolved on by the Commons *.

MS. Journ. of the Lords.

The parliament having thus erected their juriſdiction over every part of government, and repaired the damages and loſſes of thoſe who ſuffered under the late tyranny, were no leſs exemplary in their gratitude than their juſtice. The Scots, from whoſe commotions the nation had reaped ſuch great advantages, were treated with an unlimited generoſity: their commiſſioners, of whom the moſt conſiderable were the earl of Rothes and the lord Loudon, were lodged in the city, and entertained there with great reſpect: moſt of the city magiſtrates, being Preſbyterians,

* With theſe laudable exertions in favor of public Liberty, they were guilty of an unjuſtifiable act of tyranny, in ordering a bailiff, who arreſted a ſervant of one of the members of their houſe, to ride to the Old-Exchange, with his face to the horſe's tail, and a paper on his head denoting his offence. They alſo intereſted themſelves much on the trifling circumſtance of anſwering on proteſtation of their honor, inſtead of the common practice of anſwering on oath. *MS. Journal of the Lords.*

held

held an intimate correſpondence with them. St. Antholin's church was aſſigned for their devotions, in which they openly practiſed the Preſbyterian form of worſhip: ſuch was the propenſity of the people towards a novelty from which they had been ſo rigorouſly reſtrained during the late power of the hierarchy, that multitudes of all ranks crouded to this conventicle. People came early in the morning, and kept their places the whole day, whilſt others, who were excluded, clung to the doors and windows to catch the moſt diſtant ſound of the voice of the preachers, who were heard with as much applauſe as if they had been endued with the eloquence of St. Paul *. The parliament had ſignified diſguſt at the King's terming the Scots "Rebels;" the houſe of Commons had called one of their own members to the bar for uſing the ſame expreſſion; and were ſo far from finding fault with the treaty at Rippon, that they allotted eighty thouſand pounds a month for the ſubſiſtence of the two armies, and voted three hundred thouſand pounds as a fit proportion for the friendly aſſiſtance, and relief of the loſſes and neceſſities of their dear brethren of Scotland †. Several ſubſidies, with a poll-tax, were from time to time voted to anſwer this charge; Anno 1640.

* Mr. Hume makes the following remark on this extravagance. All the eloquence of parliament, now well refined from pedantry, animated with the ſpirit of Liberty, and employed in ſuch important intereſts, were not attended to with ſuch inſatiable avidity as were theſe lectures, delivered with ridiculous cant, and a provincial accent, full of barbariſm and of ignorance. *Hume's Hiſt.* vol. I. p. 263.

† An order was entered for calling them our brethren of Scotland. The Scotch miniſters who had been turned out of their livings by the covenanters were ordered to have no preferment, either in England or Ireland. *Smollett*, vol. VII. p. 180. *Ruſhworth*, vol. IV. p. 153.

Anno 1640. and as large ſums had been advanced by individuals on the faith of parliament, they ordered theſe taxes to be paid to commiſſioners appointed by themſelves. The diſpute in regard to tonnage and poundage was now finally determined by the Commons: in the preamble to the bill, in which they granted theſe duties to the King, they aſſerted in the moſt poſitive terms their own right of beſtowing them; and to diveſt the crown of the power to increaſe theſe impoſitions at pleaſure, they gave them only for two months, and afterwards from time to time renewed their grant for very ſhort periods *.

During the reign of Edward IV. it had been enacted, that parliaments ſhould be held once every year, or more frequently if neceſſary: in former times this had been the practice; but, during the reign of the Stewarts, theſe aſſemblies had never been called but when the revenue was unable to pay the expences of the government. To bring the conſtitution back to its firſt principles, to cruſh the wicked deſigns of the miniſtry, and prevent any farther attempt to reduce England to the ſtate of France, the Commons paſſed a bill for triennial parliaments. It was ſtrongly enforced by the lord Digby, in a very animated

* At the ſame time when the Commons paſſed this bill of tonnage and poundage, they ſent a meſſage to the King, deſiring leave to examine into his income and expences, that they might take meaſures to ſettle a competent revenue on him.

Hume obſerves, that the nature of commerce began now to be underſtood, the inſtructions given by the houſe of Commons to the committee which framed the bill of tonnage and poundage being as follows: That they ſhould take care that the rates upon the home commodities might be as light as poſſible, and upon foreign commodities as heavy as trade would bear. *Hume*, vol. I. p. 269.

ſpeech;

ſpeech: "If this bill miſcarry, ſaid he, I ſhall have left me no public hopes, and, once paſſed, I ſhall have no public fears. I ſhall be bold to ſay, Mr. Speaker, that an accumulation of all the public grievances, ſince Magna Charta, one upon another, unto that hour in which the Petition of Right paſſed into an act of parliament, would not amount to ſo oppreſſive, I am ſure, not to ſo deſtructive, an height to the rights and properties of the ſubject, as one branch of our enſlaving ſince the Petition of Right. The branch I mean is the judgment concerning ſhip-money. Let him, Mr. Speaker, who, for the unmatched oppreſſion and enthralling of free ſubjects, in the time of the beſt King's reign, and in memory of the beſt laws enacted in favor of Liberty, can find a truer cauſe than the ruptures and intermiſſions of parliaments, let him, and him alone, be againſt the ſettling this bill for the frequent holding them. It is true, wicked miniſters have been the proximate cauſe of our miſeries, but the want of parliaments the primary, the efficient cauſe; ill miniſters have made ill times, but that hath made ill miniſters. Let his majeſty hear our complaints never ſo patiently; let him purge away our grievances never ſo efficaciouſly; let him puniſh and diſpel ill miniſters never ſo exemplarily; let him make choice of good ones ever ſo exactly; if there be not a way ſettled to preſerve and keep them good, the miſchiefs and they will grow again, like Sampſon's locks, and pull down the houſe upon our heads: believe it, Mr. Speaker, they will. It hath been a maxim among the wiſeſt legiſlators, that whoſoever means to ſettle good laws muſt proceed in them with a ſiniſter opinion of all mankind, and ſuppoſe that whoſoever is not wicked, it is for want only of

Anno 1640. Ruſhworth, vol IV. p. 146, & ſeq.

Anno 1640. opportunity: it is that opportunity, Mr. Speaker, which we muſt take away; which can never be done but by the frequency of parliaments. No ſtate can wiſely be confident of any public miniſter continuing good longer than the rod is over him. Let me appeal to all thoſe who were preſent in this houſe at the agitation of the Petition of Right: of whoſe promotion to the management of affairs do they think the generality would, at that time, have had better hopes than of Mr. Noy and Sir Thomas Wentworth? in that buſineſs, moſt keen and active patriots. The latter of them (to the eternal aggravation of his infamous treachery to the commonwealth be it ſpoken) the firſt mover and inſiſter to have this clauſe added to the Petition of Right, "That, for the comfort and ſafety of his ſubjects, his majeſty would be pleaſed to declare his will and pleaſure, that all his miniſters ſhould ſerve him according to the laws and ſtatutes of the realm:" and yet, Mr. Speaker, to whom now can all the inundations upon our Liberties and Properties, under pretence of law, be attributed, more than to Noy? and can thoſe, and all other miſchiefs whereby this monarchy hath been brought almoſt to the brink of deſtruction, be attributed ſo much to any as to that grand apoſtate to the commonwealth, the now lieutenant of Ireland? The firſt I hope God hath forgiven in the other world; and the latter muſt not hope to be pardoned in this, till he be diſpatched to the other. Let every man conſider thoſe men as once they were; the excellent law, for the ſecurity of the ſubject, enacted immediately before their coming to employment; the goodneſs and virtue of the King they ſerved; and yet the high and public oppreſſions which, in his time, they have wrought;

and

and ſurely there is none but will conclude with me, that as the deficiency of parliaments has been the *cauſa cauſarum* of all the miſchiefs of the preſent times, ſo the frequency of them is the ſole catholic antidote which can preſerve and ſecure the future from the like danger. Let no man object any derogation from the King's prerogative by it: His honor, his power, will be as conſpicuous in commanding that a parliament ſhall aſſemble every third year, as in commanding a parliament to be called this or that year; there is more of majeſty in ordaining primary and univerſal cauſes, than in the actuating ſubordinate effects. I doubt not but that glorious king Edward III. when he made thoſe laws for the yearly calling of parliaments, did it with a right ſenſe of his dignity and honor. The truth is, the Kings of England are never in their majeſtic ſovereignty but in parliaments: Where is the power of impoſing taxes? where is the power of reſtoring from incapacities? where is the legiſlative authority? marry, in the King, Mr. Speaker: but how? in the King circled in and invertuated by his parliament. The King, out of parliament, hath a limited, a circumſcribed authority; but, waited on by his parliament, no monarch in the Eaſt is ſo abſolute in diſpelling grievances. In chaſing ill miniſters, we do but diſſipate clouds which may gather again; but in voting this bill, we ſhall perpetuate our ſun, our ſovereign, in his vertical, his noon-day luſtre." Anno 1640.

The bill found a ready paſſage through the upper houſe; and was at length, after ſome heſitation, paſſed by the King, to the great and univerſal joy of the public. It was entitled, "An Act for preventing Inconveniencies happening by the long Intermiſſion of Parliaments," and Bill for triennial parliaments.

Anno 1640. bound the chancellor, under ſevere penalties, to iſſue out writs by the third of September in every year: if the chancellor failed in his duty, any twelve or more of the Peers to exert this authority: in default of the Peers, the ſheriffs, and other proper officers, were to ſummon the voters: and, in their default, the voters were to meet, and proceed to the election of members, in the ſame manner as if writs had been regularly iſſued from the crown; nor could the parliament, after it was aſſembled, be adjourned, prorogued, or diſſolved, without their own conſent, during the ſpace of fifty days.

Beſides theſe conceſſions, made to calm the rage of the people, Charles thought of weakening the popular party by beſtowing gratifications on their leaders. By the advice of the marquis of Hamilton, a change of miniſters was reſolved on: the earls of Hertford, Bedford, Eſſex, Briſtol, Warwick, with the lords Say, Saville, and Kimbolton, were ſworn privy-counſellors. Juxon biſhop of London, a creature of Laud, who had ſeconded all the arbitrary motions of his patron, both in the Star-chamber and High-commiſſion court, deſirous to ſcreen himſelf from particular cenſure, ſolicited leave to reſign the treaſurer's ſtaff: the earl of Bedford, a popular leader of great authority, was appointed to ſucceed him *; Holles was to be made ſecretary of ſtate in the place of Windebank; St. John ſolicitor-general in the place of Herbert, who was made attorney-general in the room of Banks, promoted to the Common-Pleas; Pym was to be chancellor of the Exchequer, in place of the lord Cottingtom, an

* The earl of Bedford dying before he took poſſeſſion of the office, it was committed to five commiſſioners. *May's Hiſt.* p. 119.

obnoxious

obnoxious miniſter, and a ſuſpected Papiſt; who, to eſcape proſecution, had reſigned both that and the office of maſter of the Wards; the lord Say was to be gratified with this poſt; the earl of Eſſex was to be made governor, and Hamden tutor, to the prince. The uncorruptible virtue which was found in theſe men put a ſtop to moſt of the intended promotions: St. John, who was appointed ſolicitor-general, oppoſed the court with the ſame vigor and firmneſs as before; and thoſe who were newly admitted of the privy-council, inſtead of vindicating the uſurped power of that board, and drawing juriſdiction to themſelves, gave the King on all occaſions this honeſt advice, that he ought to be directed on every important point by his great council the parliament. Anno 1640.

Charles, finding that inſtead of acquiring partizans he ſhould be ſurrounded by troubleſome monitors, if the intended change took place, let the deſign drop. It is thought that the leaders became more perſonally exaſperated againſt him from this diſappointment; but there are no grounds for this ſuppoſition, ſince Eſſex, who was gratified with the place of chamberlain in the room of Pembroke *, continued as firm as the reſt to his principles and party.

Some time in the beginning of this year the States-General had ſent a ſplendid embaſſy to Charles, to propoſe ſuch a league as ſhould be found conducive to the intereſt of both nations: at the ſame time, the young prince of Orange demanded the princeſs Mary in marriage. Charles readily agreed to propoſitions ſo favorably preſented to ingratiate himſelf with his people: He had the

* Pembroke was turned out for uniting himſelf to the popular party.

com-

Anno 1640. complaiſance to impart at this time the propoſal to the houſe of Peers, and aſk their advice on it. The Peers teſtified their full approbation, and the marriage was concluded, to the general ſatisfaction of the public. The princeſs at this time was not above twelve years of age.

Notwithſtanding the apparent reformation in the King's conduct, he could not obtain the confidence of the public: His character was totally deficient in the qualities of honor and integrity; his word had been often broken, or meanly evaded; and in all tranſactions with his people he had attempted deceit. The conceſſions he had lately made were known to be oppoſite to his principles, his judgment, and his inclinations, and conſidered as the effect of his neceſſitous circumſtances. The parliament was determined to make a proper uſe of thoſe neceſſities.

Anno 1641. Trial of Strafford. Strafford's impeachment had been all this time preparing, and was now carried up the houſe of Lords: it conſiſted of twenty-eight articles, and regarded his conduct as preſident of the council of York, as governor of Ireland, as counſellor and commander in England. The articles in regard to Ireland related to arbitrary acts of juriſdiction, governing by martial law, billeting ſoldiers, enforcing obedience to arbitrary decrees by military power, deciding cauſes before the council which ought to have been decided in the courts of law *, iſſuing pro-

* Among other caſes of this ſort, he was charged with having cauſed an order of the council to be entered againſt the lady Hibbots, whereby ſhe was obliged to relinquiſh an eſtate which was conveyed to Sir Robert Meredith for the uſe of Strafford. On the lady's heſitating to perform the order, Strafford ſaid, "If you do not perform it by ſuch a day, I will ſend you to the Caſtle, and there you ſhall lie a month, at the end of which you ſhall be brought to the board, and have

clamations, and puniſhing their infraction, enforcing arbitrary oaths *, ſetting arbitrary impoſitions upon merchandize, granting excluſive licences for importing pipe-ſtaves, making monopolies of tobacco and other commodities, and exerciſing cruelties on thoſe who diſputed theſe points. He was charged with obtaining from the King, that no complaint of injuſtice done in Ireland ſhould be received in England, unleſs the party had firſt made their application to him; and that, to prevent any moleſtation in his tyrannical courſe, he put out a proclamation, forbidding any to depart the realm without licence from himſelf †: he was charged with raiſing to Anno 1641.

have five hundred pounds laid on your head; at another month's end a thouſand more, and you ſhall go back to the Caſtle again; and after that, a third month's impriſonment, and your fine increaſed. Your eſtate, I know, in very great; and if it were ten times bigger I will make it crack." *Ruſhworth*, vol. VIII. p. 221. 227.

* The oath impoſed on the Scots was uſhered in with the ſpecious introduction of a petition from ſome of the individuals of that nation, that they might, by ſuch a teſtimony of their allegiance, purge themſelves from the imputation of diſaffection, which they might otherwiſe incur from the treaſonable conduct of their countrymen the covenanters. The procuring ſuch a petition Strafford propoſed at the Iriſh council-table; and the men of fortune of the Scotch nation were ſent for immediately to Dublin. On Strafford's telling them, that it was expected they ſhould do ſomething to vindicate themſelves from any aſperſions, which might be flung on them, the biſhop of Downe and Raſſo propoſed the petitioning that they might join in an oath. Sir James Montgomery making ſome objections to the flaviſh concluſions in the oath, Strafford anſwered, "Sir James, you may petition, or not, as you will; but if you do not, or who doth not, ſhall do worſe." The biſhop of Raſſo drew the oath, and the biſhop of Downe complained that it was too cold and mean. *Ruſhworth*, vol. VIII.

† The committees from the Iriſh parliament could not obtain leave to come over to England, till, by the deſire of the Engliſh parliament, the reſtraint which Strafford had laid on the inhabitants of that kingdom was taken off, and a free com-

Anno 1641. his own uſe an hundred thouſand pounds *per* year by ſuch acts of oppreſſion *. He was charged with giving power to the biſhop of Downe and Connor, by a general warrant under his own hand, to attach and arreſt the bodies of all ſuch of the meaner ſort, who, after citation, ſhould either refuſe to appear, or appearing ſhould omit to fulfil, or undergo the decrees given againſt them †. He was accuſed of reſtoring many Popiſh religious houſes, of raiſing an army of Papiſts, whom he paid punctually, and admitted to exerciſe their religion, whilſt the Proteſtant ſoldiers were unpaid. Theſe were the ſubſtance of the articles which related to Ireland.

The crimes which he was charged with as preſident of the council of York, and counſellor, were, That he, being made preſident of the King's council in the Northern parts, had put into execution inſtructions againſt law, which never had been practiſed by other preſidents, exerciſed an exorbitant and illegal power over his majeſty's ſubjects in thoſe parts, and fined and impriſoned many to their ruin; and, that he might exerciſe this unjuſt power with the greater licence, did procure farther directions, by which he was inveſted with a more oppreſſive and unlawful au-

communication opened between the two nations. *Ruſhworth*, vol. VIII. p. 469.

* After Strafford was impeached, the Iriſh houſe of Commons ſeized the books and accounts of the farmers of tobacco, of which the earl of Strafford was chief, diſcharged their officers and collectors, ordered the keepers of their magazines to give a detail of the debts owing, and confiſcated the whole, to the lord Strafford's damage above eighty thouſand pounds. *Carte's Life of Ormond*, vol. I. p. 127.

† This commiſſion was executed with the additional cruelty of wounding, beating, and impriſonment, *Ruſhworth*, vol. VIII. p. 238.

thority

thority than any of his predeceſſors. He was accuſed of ſaying publicly at the aſſizes held for the county of York, that the King's little finger ſhould be heavier than the loins of the law*. The twentieth and twenty-firſt, ſecond, third, fourth, fifth, and ſixth, articles of his impeachment related to his conduct in the capacity of counſellor: That he had incenſed the King againſt the Scots, adviſed him to an offenſive war, and againſt an accommodation; that he had told the King, if the parliament did not anſwer his expectation, he would ſerve him in another way. He was accuſed of raiſing an army in Ireland of eight thouſand foot and one thouſand horſe; of publicly declaring in England, that his majeſty ſhould try firſt the parliament here, and if that did not ſupply him according to his occaſions, he might uſe his prerogative as he pleaſed, to levy what he needed; he ſhould be acquitted both by God and man if he ſupplied himſelf, though againſt the will of his ſubjects: that he had adviſed the King to diſſolve the laſt parliament, and told him, that having tried the affections of his people, he was abſolved from all rule of government, and might do what power would admit; that he had an army in Ireland which he might employ to reduce this kingdom to obedience. He was alſo accuſed of adviſing the rigorous levying ſhip-money; of telling the aldermen of London, that they deſerved to be put to fine and ranſom, and that no good would be done with them till an example was made of them, and Anno 1641.

* It was on the occaſion of his laying a command on Sir David Fowlis to repair a bridge: Sir David told him, he could not do it by law. On this Strafford replied, "Sir, ſome are all for law and lawyers; but you ſhall know that the King's little finger is heavier than the loins of the law." *Ruſhworth*, vol. VIII. p. 712.

Anno 1641. that they were laid up by the heels, and ſome of them hanged. The twenty-ſixth article charges him with having counſelled the King to ſeize the bullion and the money in the Mint *, and to debaſe the coin by mixing it with braſs; and that on the officers of the Mint giving him reaſons againſt debaſing the money, he told them, that the French king did uſe to ſend commiſſaries of horſe with commiſſion to examine mens property, that they might know what to levy on them; and that he turned to the lord Cottington, and ſaid, that it was a point worthy his lordſhip's conſideration.

The crimes charged againſt him as a commander in the Engliſh army were, the levying by force, in the late Northern expedition, eightpence † *per* day from each of the inhabitants of the county of York who were poſſeſſed of property; with having loſt Newcaſtle by neglect; and with being the cauſe of the defeat of the Engliſh at Newburn, by peremptorily commanding the lord Conway to fight the Scots, though Conway had repreſented them to be much ſuperior to the troops under his command. The Commons had applied to the King, that he would allow their committee to examine privy-coun-

* On ſeizing the money in the Mint, Strafford ſaid, that the merchants ought to bear the damage; though they thought it a ſtrange buſineſs here, yet beyond ſea it was not thought ſo; if they ſpeeded amiſs they might thank themſelves; they were more ready to help the rebels than to give his majeſty his due: fourteen thouſand pounds they owed for ſhip-money. *Ruſhworth*, vol. VIII.

† This tax was raiſed by military force. Warrants were given out for paying it, on pain of death. Strafford pretended, that he acted in this affair with the conſent of the council of Peers: The truth of this aſſertion thoſe lords denied by a ſolemn proteſtation in parliament. *Ruſhworth*, vol. VIII. p. 37, *& ſeq.* 616.

ſellors

ſellors with regard to opinions delivered at the board: This the King was perſuaded to aſſent to, leſt the denial ſhould occaſion very black ſuſpicions *: but the conceſſion had an effect he did not foreſee: It ſtruck an awe on the licentious debates of that board, where every member, without fear of enquiry and puniſhment, uſed freely to propoſe illegal and treaſonable expedients for ſupporting the tyranny of the crown. Anno 1641.

Strafford having, with his power, loſt his influence over the parliament of Ireland, that aſſembly at this period exerted a freedom of debate, and a vigor of action, which they had never practiſed: Each houſe ſent over into England a committee to aſſiſt in the proſecution of their governor †; put a ſtop to the manner of levying ſubſidies, which had been forced upon them by Strafford ‡; and carried up impeachments againſt Sir Richard Bolton their preſent chancellor, Sir Gerald Lowther their chief-juſtice, and Bramhall biſhop of Derry, all of them the crea-

* The Lords had given leave, that the members of their houſe ſhould be examined upon oath.

† Not one individual of the Iriſh clergy had ſpirit enough to exhibit a complaint againſt him for the arbitrary manner in which he enforced the Engliſh canons on their church; ſo that black part of his conduct was not in his charge.

‡ This tax, according to the manner of levying it, dictated by Strafford, was ſo heavy, that the earl of Corke in one year paid thirty-ſix hundred pounds for his own ſhare. The Iriſh houſe of Commons having made an order for the manner of levying ſubſidies in future, Charles, in imitation of the behavior of king James to the Engliſh parliament, commanded the order to be torn out of the Journals. He afterwards thought fit to give way to reſtoring the order, and agreed that the ſubſidies ſhould be aſſeſſed in the manner inſiſted on by the Commons. *Carte's Life of Ormond*, vol. I. p. 100. 107. 118.

Anno 1641. tures of the lieutenant's promoting, and the tools of his tyranny *.

Weſtminſter-Hall was pitched on by the parliament for Strafford's trial: Scaffolds were erected, where both houſes ſat; the Lords as the judges, and the Commons as the accuſers †. The earl of Arundel, in the abſence of the lord-keeper Littleton, who was ſick ‡, was appointed high-ſteward to preſide in the court ‖. He was thought at this time to retain a ſharp reſentment againſt Strafford for diſappointing him of ſome lands in Ireland, to which he imagined he had a family claim. The Commons objected to the biſhops having a voice in the judgment given on Strafford, becauſe they were forbid by an old canon to aſſiſt in any trial of life. This canon had never yet been adhered to; but, on the preſent occaſion, they did not think fit to irritate farther the anger of the Commons, nor venture the rage of the public, by openly ſupporting Strafford; of themſelves they thought proper to withdraw:

* All the articles of grievances debated in the parliament of Ireland were oppoſed by the whole bench of biſhops there. The biſhop of Meath moved, that as all the lords ſpiritual were againſt the grievances, the naming them in their order might be ſpared. *Carte's Life of Ormond*, vol. I. p. 121.

† The Commons ſat bare-headed, whilſt the Lords were covered. This the Commons condeſcended to for the following reaſon: Becauſe they ſat as a committee only of the houſe of Commons, whilſt the Lords repreſented their whole houſe. The Commons declared, they might come as a houſe if they pleaſed. They reſolved, "That if the earl of Strafford had liberty given him to ſpeak in his defence, before the managers appointed to manage the evidence entered into the management of it, they ſhould forbear to proceed till they had farther orders from the houſe." *Ruſhworth*, vol. VIII. p. 40.

‡ On Finch's flight, he was promoted to the ſeals, and created a baron.

‖ The earl of Lindſey was high-conſtable.

And

And thus the criminal loſt an advantage which might have put ſome ſtop to the proceedings againſt his life. The Commons alſo voted, that the new-created peers ought to have no voice at this trial, becauſe the accuſation being agreed to whilſt they were Commoners, their conſent to it was implied with that of the Commons of England; and that they would be in the double capacity of judge and accuſer. This was a very wiſe precaution, many Commoners having been made peers on purpoſe to favor Strafford. The majority of this number aſſented to the determination of the Commons; but Sir Francis Seymour, a quondam patriot, who had gotten a title on this occaſion, with ſome others, kept their ſeats, and the matter was no farther debated *. Anno 1641.

Weſtminſter-Hall was crouded with ſpectators; a cloſe gallery was prepared for the King and queen, who attended during the whole trial, which laſted eighteen days. The managers for the Commons were, lord Digby, Sir Walter Earle, John Pym, John Hamden, Oliver St. John, Geoffrey Palmer, John Maynard, John Glyn, Eſqrs. They ſupported the impeachment by a variety of particular inſtances of an exorbitant exertion of arbitrary power. The firſt day was ſpent in reading the impeachment; on the ſecond day Mr. Pym opened the pleadings. "Strafford boaſts, ſaid this ſagacious nervous ora-

* The Lords reſolved, that no uſe ſhould be made of proxies on Strafford's trial. It was determined, that council ſhould not be admitted him as to matters of fact, but only as to matters of law. The Lords reſerved to themſelves the liberty of judging what were matters of fact, and what matters of law; and the Commons declared, that no proceedings in this caſe ſhould be a precedent to their prejudice.

Anno 1641. tor, that he was a means of calling a parliament: My lords, parliaments without parliamentary liberties are but a fair and plauſible way into bondage. Sir Pierce Croſby, for ſpeaking againſt a bill in the houſe of Commons, was ſequeſtered from the council-table, and committed to priſon. Sir John Clotworthy was threatened that he ſhould loſe a leaſe he had. Mr. Barnwell and two other gentlemen were threatened they ſhould have troops of horſe put upon them for ſpeaking in the houſe. Proxies by dozens were given. My lords, parliaments, coming in with theſe circumſtances, they be grievances, miſchiefs, and miſeries; no works of thanks and honor. He ſays, he has executed his commiſſion with moderation. When you find ſo many men impriſoned, ſome adjudged to death, ſome executed without law; when you find ſo many public rapines on the ſtate; ſoldiers ſent to make good his decrees; ſo many whippings in defence of monopolies; ſo many jurors fined for not giving verdicts on his ſide; men of quality diſgraced, ſet in the pillory, and wearing papers; can you think there was moderation? If you compare his courſes with other parts of the world, he will be found beyond all in tyranny and harſhneſs; but if you compare them with his mind and diſpoſition, perhaps there was moderation: the habit of cruelty in himſelf, no doubt, is more perfect than any act of cruelty he hath committed. If this be his moderation, I may truly ſay that is verified in him, "The mercies of the wicked are cruel." For his honorable way of increaſing the King's revenue; if monopolies, if vexation of the ſubject, be honorable ways, we ſhall leave that to your lordſhips to judge. Moſt of his increaſes have been made upon monopolies. It is

true, there is another way of bargaining; but it hath been mixed with rapine, rigor, and injuſtice: men have been driven to reſign their eſtates. Is this a juſt way of improving a king's revenue? That I ſhall ſubmit to your lordſhips *." Anno 1641.

In Strafford's charge, as delivered by the managers, it appeared, that in all his employments he had exerciſed very arbitrary acts of power, and his whole conduct ſince he had been inveſted with authority had been highly inſolent †. Even in

* Mr. Maynard, in his pleadings againſt Strafford, aſſerted, that treaſon againſt the perſon of the prince fell ſhort of the treaſons he had committed: One prince might be ſucceeded by another; but when Law and Juſtice were taken from the throne, and Will placed in their ſtead, there was no hope of remedy. Mr. Stroud ſaid, that to incite a prince to tyrannical acts was a greater offence than to kill him: he might die otherwiſe with a fair reputation.

Strafford was totally ignorant of the tranſactions which had paſſed in Ireland: when the Iriſh remonſtrance was produced at his trial, and that it appeared that the houſe of Commons there had voted him guilty of high-treaſon, he exclaimed, in the bitterneſs of his diſappointment, that there was a conſpiracy to take away his life. He was reprehended for this by the managers, and obliged to aſk pardon on his knees. Beſides thoſe complaints of the Iriſh ſet forth in Strafford's impeachment, the Lords, by a committee of their houſe, complained to the King, that they were obliged, on their abſence from parliament, to leave their proxies with the officers of ſtate. *Ruſhworth*, vol. VIII. *Guthrie*. *Carte's Life of Ormond*.

† Among the many inſtances of imperious expreſſions brought againſt him are the following. On the occaſion of a petition being preſented to him, deſiring the benefit of the graces, he ſaid in full parliament, "You are a conquered nation, and muſt expect laws as from a conqueror;" adding, "The inſtructions given in king James's time, for the government of the courts of juſtice in this kingdom, are inſtructions contrived and procured by a company of narrow-hearted commiſſioners, who knew not what belongs to government." He told the mayor and aldermen of Dublin, on a repreſentation of theirs that the citizens of that town were by

Anno 1641. Ireland, the government of which had been ever tyrannical, he had out-gone former governors,

law exempted from the maintaining ſoldiers, that their antiquated, worm-eaten charters were nothing worth; the King might do what he pleaſed. On lord Corke's commencing a ſuit at law for the recovery of a poſſeſſion out of which he had been put by Strafford's order, he ſaid to him, "Call in your writs, for if you do not I will clap you in the Caſtle. I will not have my orders diſputed by law nor lawyers." On the ſame nobleman's being proſecuted for breaking what was termed an Act of State, he pleaded, that the act was made in king James's time; and as it had never been publiſhed, nor had he ever heard of it, he conceived there could be no reaſon for the proſecution: to this Strafford anſwered, "I tell you, my lord, as great as you are, I will make you and all the ſubjects of Ireland know that any act of ſtate, made or to be made, ſhall be as binding to you during my government as an act of parliament." One Martin a lawyer, in his pleading a cauſe at the council-table, ſaid, he had the authority of an act of parliament for what he aſſerted: on this Strafford replied, "Sir, I will make you know that an act of this board ſhall be as good as any ſtatute." On the Iriſh parliament flinging out an act which made it felony to have gunpowder without licence, Strafford ſaid, "That he would make that, and other bills they had voted againſt, acts of ſtate, which ſhould be as binding." Strafford declared publicly at his own table, "That if he lived he would make an act of ſtate to be of equal power with an act of parliament." Sir Pierce Croſby depoſed, that this declaration was the occaſion of the breach between him and the lieutenant. Strafford, on the fining Stewart and Grey very heavily, and impriſoning them for not taking the oath he had impoſed on the Scots in Ireland, publicly declared, "That they were favorably dealt with; that it was high-treaſon not to take the oath, and not to take it in the ſenſe that they were to be obedient to the eccleſiaſtical ceremonies of the church, either eſtabliſhed or to be eſtabliſhed; that he would proſecute to the blood thoſe who reſiſted; the Scots who heſitated on the taking it were traitors and rebels; and if the King would honor him ſo much as to ſend him back, he would eradicate, root and branch, out of the kingdom of Ireland, all of that nation who had any ſuch ſcruples."

Had the King ſucceeded in his ſchemes, Strafford would have had full power to execute his malicious intentions on the Scots; for, according to Carte, he was, by commiſſion under

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and had been guilty of many unprecedented acts of power. Anno 1641.

His anſwer is hardly plauſible, though drawn up with art *: He could not deny the illegality

the great-ſeal, made captain-general of all the King's forces in Ireland, with power to lead them into Scotland, to attack and ſuppreſs the rebels, and pardon or deſtroy, as he ſhould think fit. *Ruſhworth*, vol. VIII. *Carte's Life of Ormond*, p. 103.

* To his arbitrary deciſions againſt law he pleaded, that they were errors in judgment; and errors in judgment were not treaſon. To the charge of obtaining an enlargement of his juriſdiction, that it was a chaſte ambition for a man to deſire as much power as he could get, that he might be enabled to do the more good. In excuſe for what he had aſſerted concerning the Dublin-charter, he alleged, the aldermen would not be brought to obey the orders of the board, but ſtood on their charters. The managers for the houſe of Commons replied, that this was a confeſſion that the charter of the ſubjects' liberty had been brought to the council-table, and judged there, though the council had no power to declare the validity or invalidity of charters. To the general charge of words, Strafford pleaded, that it was hard he ſhould be brought in judgment for mere words, and many of them ſpoken a long time ago: this was an abſurd plea, ſince there was no other reaſon for his not having been brought to judgment when thoſe offences were committed, but his being at that time too powerful: the managers reminded him, that he had condemned Mountnorris to death for words of little importance, ſpoken againſt himſelf, an individual; whereas the words with which he was charged were treaſon againſt the conſtitution and liberties of the ſubject. To the charge of impoſing arbitrary oaths, he pleaded the King's command; it was an act of obedience, and he had rather ſuffer in obeying his majeſty than diſpute his commands: if that act of impoſing the oath was treaſon, notwithſtanding the particular circumſtance of the King's affairs, he ſhould be ready to fin again, if the occaſion offered: To this Mr. Stroud ſhrewdly replied, he did believe him, and that made him conſider a heavy thing which once befel England, when Gaveſton had opportunity to repeat his bold offences. Mr. Whitlock obſerved, that he had made his words good concerning an act of ſtate; for no power could legally impoſe an oath but an act of parliament. To the charge of fining, impriſoning, and whipping, for

Anno 1641. of his actions, nor efface an air of inſolence which ran through all his proceedings. Nothing can be more puerile than his defence on the main

diſobeying proclamations, Strafford ſaid, that he conceived it was a fair and equitable puniſhment for ſo foul a crime. To the charge of enforcing his commands by military power, he pleaded, that he had only done it to ordinary fellows. To the charge of his laying a tax on the county of York, and that this, and the tranſactions of the like nature in Ireland, were levying war on the King's ſubjects, and conſequently conſtrued, in the eye of the law, as levying war on the King, he ſaid, he had done theſe things for the King's honor and authority, therefore it could be no levying of war on the King. For his tranſactions of that kind in Ireland, he ſaid, that a ſtatute of the tenth of Hen. VII. declared, that no war or peace ſhould be made but by the deputy's licence, and that the deputy had power to make war whenever he pleaſed: To the firſt plea the managers replied, that though there might be no intent on the King's perſon, yet, if againſt his people, ſuch a levying of war was treaſon; homicide of a mean ſubject is againſt the King's crown and dignity, becauſe againſt the protection and ſafety of his people: To the ſecond, that it was true, in caſe of hoſtility or rebellion, the deputy might make a defenſive war; but to do it in time of peace, on the King's ſubjects under the government of his laws, was to make war on the ſovereign power which did protect them. To the charge of adviſing the levying ſhip-money, Strafford alleged, that he had adviſed no other than had been uſed three or four years before his coming into the kingdom; there had been a judgment given for it; it was not for him to diſpute the opinion of the judges, but with humility to ſubmit to better judgment than his own; he had learnt in his own practice, by reaſon of his weakneſs, not to be wiſer than his teachers, or to pretend to know more in other mens profeſſions than they knew themſelves: "We who are not bound to the profeſſion of the law, ſaid he, are not bound to ſpeak the law; we can tell what in our hearts is honorable and juſt, but what is legal is another man's buſineſs." Surely Strafford was not of this modeſt opinion when he argued, that gentlemen were as capable of preſiding over courts of juſtice as lawyers; when he diſdained to ſee gown-men put ſuch a prejudice upon all ſorts of men, as if none were worthy to be truſted with adminiſtration of juſtice but themſelves; when he adviſed Laud to rule the lawyers in England as he did in Ireland. *Vide* p. 162. 183. 184. of this vol.

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article, that of having adviſed the King to proceed in the way of arms; and, if he was denied money by parliament, to raiſe it by other means *. Anno 1641.

* Uſher the lord-primate of Ireland ſwore, that he found Strafford of an opinion, that the King might uſe his prerogative if he pleaſed. The lord Conway ſwore, that he heard Strafford expreſs himſelf, that the King might uſe his prerogative if he pleaſed. Sir Henry Vane ſwore, that to the beſt of his remembrance he heard Strafford ſay, that, if the parliament did not ſucceed, he would be ready to aſſiſt his majeſty any other way. The lord Newburgh depoſed, that he heard Strafford ſay, that as the parliament had not ſupplied the King, he might take other courſes for the defence of the kingdom. The lord Holland depoſed, that Strafford ſaid, that as the parliament had denied the King, it gave him advantage to ſupply himſelf other ways. The earl of Briſtol depoſed, that he heard Strafford ſay, that *ſalus reipublicæ* was *ſuprema lex*; the King muſt not ſuffer himſelf to be maſtered by the frowardneſs and undutifulneſs of his people. Theſe different ſetts of words have but one meaning, and amount to the principle, That the King might raiſe money, and levy armies, on the ſtrength of prerogative alone. To this ſtrong conviction Strafford had no other reply, than that each different ſett of words was only ſworn by one evidence. "My lords, ſaid he, on the words ſworn by the primate it is to be believed, and it were a great offence in any man to think otherwiſe, that in this caſe any thing can pleaſe the King, he is ſo gracious and good, but what ſhall be juſt and lawful; and then there is no doubt but, ſo far as with juſtice and lawfulneſs, he may uſe his prerogative in caſe of imminent danger, when other means fail." To the words ſwore by lord Conway he ſaid, "Truly, my lords, if I ſhould acknowledge theſe words, I do not ſee how they can be capital in my caſe: it is a very natural motion for a man to preſerve himſelf, though it be to the diſliking of another; and why a king ſhould not do it, as well as a ſubject, is ſuch a prerogative of kings as I never yet heard of. For I thought, though they had been gods on earth, yet they are men, and have affections as men, and ſhould preſerve themſelves, being not only accountable for themſelves to God Almighty, but alſo for their ſubjects, whoſe good and benefit is wrapped up in theirs." Strafford farther alleged in his defence, that he thought the King had an abſolute power given him by God Almighty for preſerving himſelf and his people, which could not be taken from him by others, nor by himſelf: the prerogative

Anno 1641. Notwithſtanding the atrociouſneſs of the facts charged againſt him, and proved by a number of

rogative of the crown was the firſt in the table of the fundamental laws of the land; it had ſomething more imprinted on it than the property of the ſubject, it had a divinity imprinted on it; kings were gods on earth; higher prerogatives than can be ſaid, or found to be ſpoken, of the property or liberty of the ſubject. To the documents given at the council-table, that the King having tried the affections of his people, he was looſe and abſolved from the rules of government, and might do what power would admit; and that his majeſty had tried all ways and was refuſed, and ſhould be acquitted both before God and men; and that he had an army which he might employ to reduce this kingdom to obedience; Strafford acknowledged every part of the charge, but that of his adviſing the King to land the Iriſh army in England, and this becauſe no other counſellor at the table remembered thoſe words but Sir Henry Vane. On this part of his charge lord Ranelagh depoſed, that on directions being left by Strafford to raiſe a large army in Ireland, his creature and boſom-friend Sir George Ratcliffe ſaid, The King had an army; it was his own fault if he wanted money. Sir Thomas Barrington depoſed, that Sir George Wentworth, Strafford's brother, immediately after the diſſolution of the laſt parliament, declared, that the commonwealth of England would never be well till it was conquered again. And lord Ranelagh ſaid, that himſelf and other counſellors had conceived great apprehenſions that the Iriſh army was to be uſed to raiſe money forcibly in England. For the words he confeſſed, in their nature as treaſonable as thoſe he denied, he made the following weak apology: That it was ſpoken with a ſecret reſervation, that it ought to be done fairly; that theſe were conditions underſtood when we ſpoke of the ſacred majeſty of kings; that this implied it could not be high-treaſon to tell the King, that, having tried the affections of his people, he was looſe and abſolved from the rules of government, and might do what power would admit: there was an argument which cleared the intendment and the meaning of the words, which was, that nothing had been done by the King or the council againſt the laws and cuſtoms of the realm.

Rushworth, vol. VIII. p. 565.

This childiſh argument, ſupported by ſo ridiculous an aſſertion, Strafford, in the courſe of his pleadings, contradicts, by ſaying, that he adviſed the King in a proper time to vindicate the property and liberty of the ſubject from any ill prejudice which might fall from ſuch a precedent; which ad-

able teſtimonies and the whole tenor of his con- Anno 1641.
duct and converſation, notwithſtanding the fri-

vice, if true, implied an intention to ſome unconſtitutional violent act of power. Strafford ſaid, that he had heard an opinion might make an heretic, but never that it could make a traitor. This obſervation is little to the purpoſe; ſince, though the opinion of a man, given by way of argument, cannot make a traitor, yet an opinion given by a ſtateſman, as advice to a prince, may certainly be treaſonable. Strafford's plea on that atrocious fact of condemning the lord Mountnorris turned againſt himſelf. He made martial law, a thing contrary to the Petition of Right, which according to the privileges of the nation was to take place in Ireland, an inſtrument of his vengeance to effect what he acknowledges he thought cruel, and which could be done by no other law. Thus he ſatisfied his pride, and ſhewed, that no officer in the army, under his diſpleaſure, had other reſource to ſave himſelf from death than his clemency. Beſides this ſentence paſſed on Mountnorris, Strafford had by martial law condemned and executed one Denwit, a ſoldier, for ſtealing a piece of beef, though he was adviſed by many members of the court-martial to try him by common law. His arbitrary proceedings againſt the late chancellor Loftus he endeavored to throw entirely on the King; appealed to an order he had obtained from that eaſy monarch, that the cauſe ſhould be determined by the deputy and council of Ireland; and alleged, that their decree had been afterwards confirmed by his majeſty.

To obtain the ſanction of the royal authority for what he had acted againſt the chancellor, he made uſe of arguments which never failed to have weight with Charles: "If the honor and juſtice of this ſtate, ſaid he, be not vigorouſly borne forth againſt the chancellor's untruths and incivilities, the regal authority will perchance be as much invaded, as roughly dealt with, in this kingdom as in other places; whereas hitherto, God be praiſed, no king can be more abſolute than your majeſty is among us." Farther he told the King, that the chancellor's offence was an high and immediate contempt againſt his majeſty's own power and greatneſs; that his churliſh will preſumed to contend for maſtery with royalty; that he (Strafford) contended for his majeſty's authority, unmixed with any private intereſt of his own. It was the diſtemper of the times to diſpute the higher powers; God and his majeſty were only able to correct and ſtay the madneſs. He aſſured the King, that all his miniſters took

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Anno 1641. volouſneſs of his defence, a certain blandiſhment of behavior which he aſſumed on this occaſion; a certain air of importance miſconſtrued into dignity; a certain ſpeciouſneſs of manner, miſtaken for decency and humility; theſe, with the particular circumſtances of his ſituation, reduced in an inſtant from the ſummit of power and ſplendor, to plead as a criminal at the bar of a court of juſtice, produced ſentiments in his favor from the weak part of the audience: the women, in particular, not comprehending, or inattentive to, the ſolidity of the arguments urged by the Commons, deaf to the eloquence and ability of the managers, attended with pity and partiality to the unhappy priſoner. Beſides the favorable ſentiments which he had the art to excite in his ſpectators, through the whole courſe of his pleadings he endeavored to prejudice his judges in his favor: his expreſſions were full of veneration for the body of Peers, and he inſinuated that their privileges were intereſted in his fate. Mr. Glyn noticed this management, and told the Lords, that though the priſoner had magnified the Peers of the realm almoſt to idolatry, yet when he was in his kingdom in Ireland, and had power over them, he ſhewed the reſpect he had to the Peers of the kingdom, judging ſome to death, com-

the buſineſs of the chancellor extremely to heart, and reſted confident his majeſty would in his wiſdom preſerve his greatneſs and authority. This cant had ſuch an effect on the King, that though he had given the chancellor leave to come over to make an appeal, and receive his diſmiſſion by an eſpecial warrant from himſelf, yet he countermanded this, and gave way to the deputy's keeping the chancellor under reſtraint till he had aſked leave of the board to repair to England, and had ſigned a ſubmiſſion and confeſſion that he had behaved ill and impertinently to the deputy. *Ruſhworth*, vol. VIII. *Strafford's Letters.*

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mitting others to priſon, and ſeizing their eſtates. Anno 1641.

The Commons had unqueſtionably proved an intention in Strafford to ſubvert the fundamental laws of the kingdom: this is not within the deſcription of treaſon in the ſtatute of the twenty-fifth of Edw. III. They proceeded againſt him in a ſalvo of that act, which provides, that the King and parliament have power of determining what is treaſon, what not. They therefore voted, that the facts proved upon him were treaſonable.

On the thirteenth of April, he was called to the bar, and commanded by the Lords to ſum up his evidence: This he did in a long ſpeech, the argumentative part of which is certainly very weak; and his endeavor to extenuate his crimes very impotent. His arbitrary extra-judicial acts, he called an over-exerciſing of juriſdiction: It was not high-treaſon in a judge to enlarge his juriſdiction. "But, my lords, ſaid he, if all theſe had been done without any manner of authority, it had not been a ſubverſion, but rather a diverſion of the law; ſo long as I keep the rule of the law, and do the ſame thing which another man does in a more legal way, I mean in a more warrantable place, I ſay, my doing of the ſame thing in an improper place, is not a ſubverſion, but a diverſion of the law *. If you will bring in the Thames about Lambeth, to come in again below the bridge, the river is the ſame, though the courſe be diverted to another place: ſo the fundamental law is the ſame, though the courſe be diverted to another place. I ſay, the funda-

* To divert a legal and juſt proceeding into an arbitrary one, Mr. Glyn obſerved, was not only turning but corrupting the clear and cryſtal ſtreams of legal juſtice to muddy waters of bitterneſs and death.

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Anno 1641. mental law is the ſame, only it is carried in another pipe."

The concluſion of Strafford's ſpeech, in which he endeavored to repel the principal arguments on which the bill depending in the houſe of Commons was founded, has been ſo much extolled for its ſtyle and weight of reaſon, that the author of an hiſtory of theſe times might be accuſed of partiality in omitting it. "Where has this ſpecies of guilt been ſo long concealed, ſaid he? where has this fire been ſo long buried, during ſo many centuries, that no ſmoke ſhould appear till it burſt out at once to conſume me and my children? Better it were to live under no law at all, and, by the maxims of cautious prudence, to conform ourſelves the beſt we can to the arbitrary will of a maſter, than fancy we have a law on which we can rely, and find at laſt that this law ſhall inflict a puniſhment precedent to the promulgation, and try us by maxims unheard-of till the very moment of proſecution. If I ſail on the Thames, and ſplit my veſſel on an anchor, in caſe there be no buoy to give warning the party ſhall pay me damages: but if the anchor is marked out, then is the ſtriking on it at my own peril. Where is the mark ſet upon this crime? where is the token by which I ſhould diſcover it? it has lain concealed under water, and no human prudence, no human innocence, can ſave me from the deſtruction with which I am here threatened. It is now full two hundred and forty years ſince treaſons were defined; and ſo long has it been ſince any man was touched to this extent, upon this crime, before myſelf. We have lived, my Lords, happily to ourſelves at home; we have lived gloriouſly abroad to the world: let us be content with what our fathers have left us; let not our ambi-

ambition carry us to be more learned than they were in thoſe killing and deſtructive arts. Great wiſdom it will be in your Lordſhips, and juſt providence for yourſelves, for your poſterities, for the whole kingdom, to caſt from you into the fire theſe bloody and myſterious volumes of arbitrary and conſtructive treaſons, as the primitive Chriſtians did their books of curious arts, and betake yourſelves to the plain letter of the ſtatute, which tells you where the crime is, and points out to you the path by which you may avoid it. Let us not, to our own deſtruction, awake theſe ſleeping lions, by rattling up a company of old records, which have lain for ſo many ages by the wall, forgotten and neglected. To all my afflictions add not this, my Lords (the moſt ſevere of any) that I, for my other ſins, not for my treaſons, be the means of introducing a precedent ſo pernicious to the laws and liberties of my country. However theſe gentlemen at the bar ſay they ſpeak for the commonwealth; and they believe ſo; yet, under favor, in this particular it is I who ſpeak for the commonwealth: precedents like thoſe endeavored to be eſtabliſhed againſt me, muſt draw along ſuch inconveniencies and miſeries, that in a few years the kingdom will be in the condition expreſſed in a ſtatute of Henry IV. and no man ſhall know by what rule to govern his words and actions. Impoſe not, my lords, difficulties inſurmountable upon miniſters of ſtate, nor diſable them from ſerving with chearfulneſs their King and country. If you examine them, and under ſuch ſevere penalties, by every grain, by every little weight, the ſcrutiny will be intolerable; the public affairs of the kingdom muſt be left waſte, and no wiſe man, who has any honor or fortune to loſe, will ever engage himſelf Anno 1641.

Anno 1641. himſelf in ſuch dreadful, ſuch unknown perils. My lords, I have now troubled your lordſhips a great deal longer than I ſhould have done, were it not for the intereſt of theſe pledges, which a ſaint in Heaven has left me. I ſhould be loth----" Here Strafford pointed to his children, and his tears ſtopped his ſpeech. "What I forfeit for myſelf is nothing; but I confeſs, that my indiſcretion ſhould forfeit for them, it wounds me very deeply. You will be pleaſed to pardon my infirmity: Something I ſhould have ſaid; but I ſee I ſhall not be able, and therefore I ſhall leave it. And now, my Lords, I thank God I have been, by his good bleſſing, ſufficiently inſtructed in the extreme vanity of all temporary enjoyments, compared to the importance of our eternal duration. And ſo, my Lords, even ſo with all humility, and with all tranquility of mind, I ſubmit clearly and freely to your judgments; and whether that righteous doom ſhall be life or death, I ſhall repoſe myſelf, full of gratitude and confidence, in the arms of the great Author of my exiſtence."

Strafford's ſituation is very pathetically expreſſed in this concluſion of his ſpeech; but ſure it is very deficient in argument; ſince it is apparent that a precedent of ſo great a criminal being condemned by the whole power of the legiſlature, could not, in its conſequences, be ſo dangerous to the public, or the liberty of individuals, as the example of crimes of ſo black a nature, and ſo deſtructive to the commonwealth, being committed with impunity. An honeſt and wiſe man would never fear the ſevereſt ſcrutiny; and the weak and the wicked being deterred from accepting public offices, or, if they did accept them, being kept within juſt bounds by the terrors of

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an after-enquiry and puniſhment, muſt be of in- Anno 1641.
finite ſervice to the well-governing the affairs of the kingdom.

Mr. Pym, in language manly and pathetic, breathing ſentiments which nothing but the ſpirit of Liberty could inſpire, cloſed the pleadings of the Commons. He affirmed, that it had been clearly proved that the earl of Strafford had endeavored, by his words, actions, and counſels, to ſubvert the fundamental laws of England and Ireland, and to introduce an arbitrary and tyrannical government. He then proceeded to ſhew the heinouſneſs of the offence: "The law, ſaid he, is the ſafe-guard, the cuſtody of all private intereſt. Your honors, your lives, your liberties, your eſtates, are all in the keeping of the law. There cannot be a reaſon more pregnant or fruitful in treaſon, than that given by Strafford for overturning law in Ireland *: It was a conquered country! No doubt, the conqueror may give what laws he pleaſes to thoſe who are conquered; but if the ſucceeding pacts and agreements do not limit and reſtrain that right, what people can be ſecure? England hath been conquered, and Wales hath been conquered, and, by this reaſon, will be in little better caſe than Ireland. If the King, by the right of a conqueror, gives laws to his people, ſhall not the people, by the ſame reaſon, be reſtored to the right of the conquered, to recover their freedom if they can?" In the courſe of this excellent ſpeech Mr. Pym obſerved, that the greatneſs of a king did not conſiſt in domineering over his ſubjects at home, but to incline

* Strafford in his defence had ſaid, that Ireland was a conquered country, and that his illegal exertions there were to maintain the King's abſolute ſovereignty.

Anno 1641 and diſpoſe the affairs of other ſtates and nations for the good of mankind, and the peculiar advantage of his own people; that this kind of greatneſs had been impaired by the late miſchievous counſels. "As for induſtry and valor, continued he, who will take pains for that wherein he hath no other intereſt, but what is ſubject to the will of another? The antient encouragement for men to hazard their perſons in defence of their country was, that they fought *pro aris & focis*, for their religion and their houſes; but, by the arbitrary ſway practiſed in Ireland, and counſelled here, no man had a certainty either of religion or a houſe. Beſides, their tyrannical courſes have an ill operation on the courage of a nation: a ſervile condition begets in men a ſlaviſh temper and diſpoſition. Thoſe who live ſo much under the whip and the pillory, and ſuch engines as were frequently uſed by the earl of Strafford, may have the dregs of valor, ſullenneſs and ſtubbornneſs, but thoſe noble and gallant affections which put men on brave attempts for the preſervation and enlargement of a kingdom, they are hardly capable of. Shall it be treaſon to embaſe the King's coin, and muſt it not be a greater treaſon to embaſe the ſpirits of his ſubjects, and to ſet a ſtamp of ſervitude upon them?" Strafford's crimes, Mr. Pym ſaid, were contrary to the covenant between the King and his people, confirmed by oath on both ſides. He obſerved, that juſtice Thorpe was put to death for bribery, becauſe in committing that injuſtice he had broken the King's oath, that ſolemn obligation which is the ſecurity to the whole kingdom. Strafford's offence was contrary to the end of government, which was, to prevent oppreſſions, to reſtrain the violence of great men, to open the paſſages of juſtice with

indifferency to all. The end of government was, Anno 1641.
that virtue ſhould be cheriſhed, vice ſuppreſſed; but where arbitrary power was ſet up, a way was open for the advancement and encouragement of evil: ſuch men as were apt for the exerciſe and maintenance of that power were only capable of preferment, whilſt honeſt men, who would not be inſtruments of unjuſt and illegal commands, were not only not paſſable for employment, but ſubject to jealouſy and danger. The end of government was, that all accidents and deſigns, all counſels and events, ſhould be improved to the public good; but arbitrary power was apt to diſpoſe all for maintenance of itſelf. The wiſdom of the council-table, the authority of the courts of juſtice, the induſtry of the officers of the crown, the learning of the divines, the juriſdiction of the biſhops, had been all diſpoſed to that effect. The royal power and majeſty of kings was moſt glorious in the proſperity and happineſs of their people; the perfection of all things conſiſted in the end for which they were ordained, in attaining whereof their happineſs conſiſted; but if the means and end were ſet in oppoſition to each other, they muſt needs cauſe a defect in both.

On the abſurdity of Strafford's excuſes Mr. Pym obſerved, that it was true, liberty belonged to counſellors; but then thoſe matters which were good and beneficial to the commonwealth were the proper ſubjects of counſels; not treaſons, ſuch as the ſubverſion of its laws, and violation of its Liberties: they could not be juſtifiable by any circumſtance or occaſion. Strafford being a counſellor made his fault more heinous, as being committed againſt a greater truſt, and in a way of much miſchief and danger. Part

Anno 1641. of Strafford's apology was, that his counſels were well intended: "Sometimes good and evil, continued Mr. Pym, truth and falſhood, can hardly be diſtinguiſhed; matters hurtful and dangerous may be accompanied with ſuch circumſtances as may make them appear uſeful and convenient: in ſuch caſes good intentions will juſtify evil counſels, but when the matters propounded are evil in their nature, ſuch as thoſe wherewith the earl of Strafford is charged, to break public faith, and ſubvert laws and government, they can never be juſtified by any intentions, how good ſoever pretended. He has often inſinuated this, that his counſel was for his majeſty's ſervice, to maintain that ſovereign power with which he is truſted by God for the good of his people. Doubtleſs, this is none of that ſovereign power, that by his own will he may lay taxes on his people: this has been five times adjudged in parliament. He alleges, that his counſel was propounded with divers limitations, and repairing the liberty of the people: this implies a contradiction, to maintain an arbitrary power, and yet to reſtrain it with limitations and proviſions; for even thoſe limitations and proviſions will be ſubject to the ſame abſolute power, and to be diſpenſed with in ſuch manner, and in ſuch time, as itſelf ſhall determine." Mr. Pym concluded his harangue with obſerving, that the forfeitures inflicted for treaſon were, by the law of England, of life, honor, and eſtate, all which could be forfeited; that nothing could be more equal than that Strafford ſhould periſh by the juſtice of that law he would have ſubverted. "Neither, ſays he, will this be a new way of blood; there are marks enough to trace this law to the very original of the kingdom; and if it hath not been put in execution, as he allegeth,

allegeth, for theſe two hundred and forty years, it was not for want of law, but that all that period hath not bred a man bold enough to commit ſuch crimes as theſe; which is a circumſtance which aggravates his offence, not makes him leſs liable to puniſhment." Anno 1641.

The matters of fact being cloſed, Strafford demanded to be heard by his counſel on matters of law. The Commons oppoſed this, becauſe they had, from the firſt, intended to proceed by bill of attainder after the cloſing the evidence of facts. The Lords were extremely unwilling to give up the privilege of being the ſole judges of Strafford's guilt or innocence: They declared their reſolution of hearing his counſel on the point of law; and Gardiner (the recorder of London), Loe, Lightfoot, and one Lane (attorney to the prince of Wales), were the men appointed for this buſineſs. Lane's argument was an attempt to prove, that the ſtatute of the twenty-fifth of Edw. III. was a declarative law, and ſo not to be interpreted as of conſequence, equity, or conſtruction, but by the expreſs letter only; and that an act had paſſed in the ſixth of Henry IV. which ordained, that the ſalvo ſhould be holden repealed in all times to come, and nothing to be eſteemed treaſon, but what was contained in the ſtatute of the twenty-fifth of Edw. III.* The

* One of the facts which Mr. Lane quoted, to prove his argument, was the earl of Northumberland's caſe in the reign of Henry IV. but he ſtated it diametrically oppoſite to the truth. This earl was charged with treaſon, ſaid Lane, and if the ſtatute of the firſt of Hen. IV. cap. x. whereby the proviſo is repealed, had not intervened, no doubt he had been condemned of treaſon; but he was convicted of felony, and that becauſe he could not be drawn within the letter of the ſtatute of the twenty-fifth of Edw. III.

The earl of Northumberland had been in arms againſt the

Anno 1641. Commons thought it below their dignity to offer any anſwer to Lane's argument; but told the Lords, they would depute one of their members to ſatisfy them on the legality of their proceedings. They paſſed votes, that it was ſufficiently proved, that Strafford had endeavored to ſubvert the antient and fundamental laws of theſe realms of England and Ireland, and to introduce an arbitrary and tyrannical government againſt law; and that theſe endeavors were high-treaſon.

A paper was produced in the houſe, of notes taken by Sir Henry Vane of a debate in council after the diſſolution of the laſt parliament; the title of which was, "No Danger of a War with Scotland, if offenſive, not defenſive." The notes were as follows:

"*King Charles.* How can we undertake offenſive war, if we have no money?

"*Lord Strafford.* Borrow of the city one hundred thouſand pounds. Go on vigorouſly to levy ſhip-money. Your majeſty having tried the affections of your people, is abſolved and looſed from all rules of government, and to do what power will admit. Your majeſty having tried all ways, and being refuſed, ſhall be acquited before God and man; and you have an army in

King, and conſequently within the letter of the ſtatute. Henry referred the conſideration of his puniſhment to the judges. This the Peers in open parliament proteſted againſt, and declared that judgment belonged to them: They acquitted him of treaſon and felony, and brought him in guilty of a treſpaſs, fineable to the King. This caſe is a ſtrong evidence in favor of what the Commons aſſerted, that former parliaments aſſumed the privilege of declaring in matters of treaſon, and diſclaimed the judgment of inferior courts in all caſes of this nature which came before them, according to a declaration of the parliament in the twelfth of Ric. II. *Vide Guthrie*, vol. II. p. 348. 414.

Ireland

Ireland which you may employ to reduce *this* kingdom to obedience; for I am confident the Scots cannot hold out five months. Anno 1641.

"*Archbiſhop Laud.* You have tried all ways, and have always been refuſed; it is now lawful to take it by force.

"*Lord Cottington.* Levies abroad there may be made for the defence of the kingdom. The lower houſe are weary of the King and church. All ways ſhall be juſt to raiſe money by, in this inevitable neceſſity, and are to be uſed, being lawful.

"*Archbiſhop Laud.* For an offenſive, not defenſive war.

"*Lord Strafford.* The town is full of lords: Put the commiſſion of array on foot; and, if any of them offer to ſtir, we will make them ſmart."

This paper was ſuch a corroborating evidence to what the privy-counſellors had already depoſed on this debate, that a bill of attainder of the earl of Strafford paſſed the houſe, without any greater oppoſition than that of fifty-nine diſſenting votes.

Though we admire that ſpirit of reſentment which theſe notes kindled in the Commons againſt the principal offender, yet it muſt be allowed they were guilty of a deficiency of juſtice in not ſending up at the ſame time an impeachment againſt Cottington, who was in this debate as notoriouſly guilty of treaſon as Laud and Strafford. The partizans of tyranny pretend to palliate Strafford's guilt by alleging, that changing the word *this* into the word *that*, the advice of reducing the kingdom could regard nothing but Scotland, and implies no criminal counſel. Not to lay any ſtreſs upon the abſurdity of this argument,

Anno 1641. ment *, the other parts of the diſcourſe, acknowledged by Strafford himſelf to regard England, are evidently treaſonable †.

Mr. St. John was deputed by the Commons to ſatisfy the Lords on the legality of their proceeding by bill of attainder. His diſcourſe was very prolix, and contained great weight of law and learning. He told the Lords, that the Commons had found Strafford guilty of treaſon within the ſtatute of the twenty-fifth of Edw. III. by levying war, upon the matter of the fifteenth article of their charge ‡. They found him guilty of treaſon by aſſeſſing and laying ſoldiers § on the

* Since the queſtion in debate was how to get money of the Engliſh, the diſcourſe muſt be downright nonſenſe, if it did not mean the employing violence to reduce the kingdom which denied money.

† The notes either were, or were pretended to be, obtained clandeſtinely by Sir Henry Vane's ſon, out of a cabinet in which he had been ſent to ſearch for other papers by his father. If this was only a pretence, to ſcreen Sir Henry Vane from being thought an inſtrument in expoſing that which he had no mind to conceal, it was the moſt unneceſſary piece of hypocriſy which ever was attempted. The diſcovery muſt have done him credit with every perſon who thought juſtly; ſince it is inconſiſtent with true honor, or the duty of a good citizen, to conceal treaſonable council againſt the Liberty of his country, whereſoever projected or ſpoken. The poſition, that the oath of a privy-counſellor binds him to be guilty of ſo great a crime, is dangerous, illegal, and abſurd.

‡ Mr. St. John ſhewed, that the law made a diſtinction between ſubject's levying war againſt ſubject on matters of a private nature, and the levying war to enforce arbitrary power, and alter the laws, ſtatutes, and government of the realm.

§ This was inflicted by way of puniſhment for diſobedience to the deputy's orders. The ſoldiers who were thus aſſeſſed on the ſubject killed their cattle, and conſumed their proviſion at their pleaſure. This burthen the ſubject was to ſuſtain till they conformed in all things to the deputy's pleaſure.

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ſubjects of Ireland, within the Iriſh ſtatute of the eighteenth of Hen. VI.* and laſtly, they found him guilty of treaſon by the common law, in endeavoring to ſubvert the fundamental laws and government of the realms of England and Ireland, and inſtead thereof to introduce a tyrannical government againſt law. The ſtreſs of Mr. St. John's argument was, that Strafford was guilty of treaſon by the common law of the land, and that the ſtatute of the firſt of Henry IV. was only to regulate the common courts of juſtice, not to limit the power of parliaments. There ſeems to be a great deal of reaſon in what he urged on this point. There have been precedents ſince that time of men being convicted at common law, and impeached and attainted by parliament, Anno 1641.

* Concerning this article Strafford pleaded, that by the ſtatutes of the eighth of Edw. IV. and tenth of Hen. VII. the Engliſh ſtatutes were brought into Ireland, and conſequently the Iriſh ſtatute of the eighteenth of Hen. VI. was rendered invalid by the firſt of Hen. IV. which ſays, that in no time to come treaſon ſhould be adjudged otherwiſe than is ordained by the ſtatute of the twenty-fifth of Edw. III. This objection was little efficacious; becauſe an act of parliament, enacted at the ſame time of that of the tenth of Hen. VII. declares, that all the Iriſh ſtatutes excepting two, whereof the Iriſh ſtatute of the eighteenth of Hen. VI. was none, ſhould ſtill be in force. To an objection Strafford made, that he could not be tried in England for offending againſt the Iriſh laws, Mr. St. John brought examples to prove that ſeveral deputies had been tried in England for offences committed in Ireland; that the common law, the expoſitor of ſtatutes, was the ſame in both countries; and that writs of error in pleas of the crown, as well as in civil cauſes, had been brought even in the inferior courts of Weſtminſter, upon judgment given in the courts of Ireland; that writs of error lie in the parliament of England on erroneous judgment given in the Iriſh parliament; that acts of parliament made in Ireland have been confirmed by the parliaments of England; and that there had been ſtatutes made in England which concerned the lives of the Iriſh ſubjects. *Ruſhworth*, vol. VIII.

for

Anno 1641. for treaſons not ſpecified in the ſtatute of the twenty-fifth of Edw. III. Sir John Mortimer, after the firſt of Hen. IV.; the duke of Suffolk in Henry VI.'s time, for making an improper peace with France; and Empſon and Dudley, in Henry VIII.'s time, convicted at common law of high-treaſon, for ſubverting the laws of the land *. The ſtatute of Edw. III. ſeems to have been framed with the laudable intention of protecting the ſubject againſt the violence of kings and miniſters; and therefore has with great care enumerated treaſons which related perſonally to the King, but meddles not with original ones, for which Strafford was impeached; concerning treaſons againſt the nation, ſuch as diminiſhing its power, its glory, or its intereſt in the way of trade: concerning treaſons againſt the conſtitution and laws of the land it is entirely ſilent, and leaves their puniſhment to the diſcretion of the legiſlative power. If theſe treaſons were as well defined as thoſe which relate merely to the perſon of the King, it certainly would be advantageous to Liberty; but a toleration of them is totally inconſiſtent with the ſafety of the conſtitution. St. John did not ſtrictly confine his arguments to points of law; his warmth betrayed him into the indiſcretion of advancing poſitions which have been much cavilled at: That were the teſtimony againſt Strafford not ſtrictly what the law required, yet, in this way of bill, private ſatisfac-

* The lawyers, in their pleadings for the proſecuted members, Sir John Elliot, *&c.* quoted the ſtatute of the twenty-fifth of Edw. III. and alleged, that the parliament was to determine what was treaſon, what not. The lawyers for the crown alleged, that the poſitive law had always made explication and expoſition on that ſtatute. *Vide*, p. 68.

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tion to each man's conſcience was ſufficient; Anno 1641.
that the earl had no title to plead law, becauſe he had endeavored to deſtroy the law. "It is true, added he, we give law to hares and deers, for they are beaſts of chaſe; but it was never accounted cruel nor unfair to deſtroy foxes and wolves wherever they can be found, for they are beaſts of prey."

Though it was highly imprudent to uſe theſe arguments in a diſcourſe which ſhould have been merely confined to matter of law, yet certainly there was reaſon in what St. John advanced: A full conviction of crimes may be obtained from a complication of facts and circumſtances, the nature of which, as in this caſe, cannot admit of two witneſſes to every article; but every article and circumſtance may ſo corroborate the charge, as to amount to a more convincing proof than what is required by the forms of the law: theſe forms ought never to be diſpenſed with in any accuſation of a private nature; yet the man who would heſitate to proſecute or condemn a criminal, who it was rationally proved had, like Strafford, been guilty of attrocious acts of oppreſſions, and made bold attempts to enſlave his country, muſt be very lukewarm in the cauſe of public juſtice, and have very narrow ſentiments in regard to Liberty. The arbitrary principles which it was apparent were diffuſed through all his government, made him a more noxious miniſter than a million of unjuſt acts which had been clear of this tinct. Arbitrary principles deſtroy Liberty; the evil is univerſal and perpetual: acts of mere injuſtice are temporary evils, and affect but individuals. Strafford preferred a petition to the Lords, that he might be heard again in point of law, to make a defence againſt the bill of attainder. This the

Lords,

Anno 1641. Lords, out of reſpect to the lower houſe, thought fit to deny.

Charles, who had been flattered that the Commons, in their proceedings againſt Strafford, would find a firm oppoſition from the Peers, was ſo greatly alarmed at this piece of complaiſance, that he went immediately to the upper houſe, and calling up the Commons to the bar, made a ſpeech to both houſes to the following effect: "That he was convinced Strafford had been guilty of ſuch miſdemeanors that he was not fit to ſerve him or the commonwealth in any place of truſt; no not ſo much as to be a high-conſtable. He had been preſent at the hearing of his trial from one end to the other, and could not in conſcience condemn him of high-treaſon. He hoped they knew what a tender thing conſcience was; he would do great matters to ſatisfy his people; but that no fear nor reſpect ſhould ever make him go againſt his conſcience."

This premature declaration ſet the Commons in a flame. At their return to their houſe, they fell into a hot debate, in which it was ſaid, that his majeſty had in his ſpeech plainly aſſerted, that an attempt to ſubvert the fundamental laws of the kingdom, and introduce an arbitrary government, was not treaſon; that if the King might take notice of what bills were paſſing in either houſe of parliament, and declare his opinion before they came before him in a parliamentary courſe, it was to fore-judge their counſels, which would prevent them from applying remedies to the commonwealth ſuitable to the diſeaſes it labored under. On theſe arguments the houſe voted, that this act of the King was the moſt unparalleled breach of privilege which had ever

ever happened *. The bill of attainder met with ſo great an oppoſition among the Peers, that the Commons would have found it a difficult matter to ſucceed in this important point, had they not been aſſiſted by ſeveral favorable occurrences ariſing from the King's imprudence, or rather treachery. The facility with which the parliament had hitherto obtained what they demanded of the King had been owing to his extreme deſire to get rid of ſo troubleſome a ſet of counſellors: He every day expected that they would diſband both armies; and, according to what they had artfully flung out in ſeveral ſpeeches, ſettle on the crown an ample revenue on an independant footing. In this ſituation, he flattered himſelf he ſhould be able to get rid of thoſe fetters which his forced conceſſions had impoſed on the monarchy. But finding, contrary to his hopes, that the Commons, diſtruſting his ſincerity, were determined, notwithſtanding the expence, to detain their Scotch friends till they had perfected a reformation on a ſolid conſtitutional baſis, he became inflamed with anger and impatience, and attempted a very criminal expedient to free himſelf from a ſituation which his pride could no longer endure. Anno 1642.

The two armies remained ſtill in the Northern parts, and were ſupplied from time to time with money from the parliament. On one particular occaſion that the Scots had made very preſſing demands, ten thouſand pounds were ſent to them

* Strafford either being ſenſible of the bad effects which the King's interfering might have on his fate, or diſguſted with the expreſſions he threw out concerning his conduct, was ſo much hurt with this ſtep, the he wrote a letter to the King, ſignifying his wiſhes that he had left him to the juſtice of the Lords.

out

Anno 1641. out of fifty thouſand which had been deſigned for the Engliſh army. The Engliſh army, without attending to circumſtances, or comprehending the difficulties the Commons lay under, ſhewed ſymptoms of great diſpleaſure. Commiſſary Wilmot, a member of the lower houſe, told the ſpeaker, that if the Scots could get money for ſending a piece of paper, he did not doubt but the Engliſh officers would fall upon the ſame expedient. This coming to the King's ears, he endeavored to turn this accident to his advantage, and attach the army to himſelf. In all his converſation with the general officers, he lamented the partiality of the parliament to the Scots, and promiſed, if the Engliſh officers would be faithful to him, he would pawn his jewels to feed them and their ſoldiers. The earl of Northumberland and other principal officers being in London, the army was commanded by Sir Jacob Aſhley, a creature of the King, and one whom Strafford had preferred to his ſervice.

Attempt to debauch the army.

The queen, who, without the requiſite talents, had more that a female propenſity to intrigue, entered with greater violence than judgment into the extreme of the King's propoſition, and formed a ſcheme of bringing the army up to London, to ſurprize the Tower, overawe the parliament, and fortify Portſmouth. Two poets, Sir John Suckling and William Davenant, with a Mr. Jermyn, were her confidants and counſellors. The ſcheme was communicated to the ſon of lord Goring, an officer of a debauched and profligate character. The earl of Newcaſtle was to be general, Goring was to be lieutenant-general, and the King and prince of Wales, with one thouſand horſe, were to join the troops in Nottinghamſhire. Piercy, brother to the earl of Northum-

Northumberland, Willmot, Aſhburnham, Pollard, Berkley, and O'Neale, had communicated with the King on a deſign to engage the army in his favor; and according to directions, had drawn up a petition, which he promiſed to get ſubſcribed by the officers of the army, againſt the leſſening the power of biſhops, againſt the diſbanding the Iriſh army till the Scots were diſbanded, and for the ſettling the King's revenue; promiſing their aſſiſtance for the accompliſhing theſe points*. To this petition the King had the imprudence to ſign C. R. as a token of his approbation. Anno 1641.

Bold and dangerous as was the deſign, yet it did not match the violence of the queen's temper, nor entirely ſatisfy the King. Piercy, the principal agent between the King and theſe officers, was preſſed by the King to admit Goring and Jermyn into their cabal; and this, notwithſtanding Piercy repreſented that the things theſe men aimed at were beyond what the army could be brought to undertake, it was at length reſolved, that the two ſetts of conſpirators ſhould meet to determine on a general plan of action, under an oath of ſecrecy not to communicate any thing which ſhould paſs among them. The army, very much to their honor, had the good ſenſe to reject ſome propoſals which were made to them from this cabal; and Goring, having quarrelled with the party, diſcovered the whole plot to the leaders of the parliament. The plot diſcovered.

* Clarendon pretends to give the true petition which was preſented to the King; but Rapin has ſhewed, that this petition inſerted in the Hiſtory of the Civil Wars could not be the real one, becauſe it mentions facts which happened after the time the plot was diſcovered. *Rapin*, vol. XI. p. 134.

Mr.

Anno 1641. Mr. Pym communicated the intelligence to the houſe. There were informations given, he ſaid, of deſperate deſigns, both at home and abroad, againſt the parliament and the peace of the nation. There was an endeavor to diſaffect the army, and bring them to over-awe the parliament; there was a deſign upon the Tower, and attempts for the earl of Strafford to eſcape; that theſe combinations at home had a correſpondency with practices abroad. The French were drawing down their forces to the ſea-ſide; there was cauſe to fear their intent was upon Portſmouth; divers perſons of eminency about the queen were deeply engaged in theſe plots. Both houſes were ſo affected with the proſpect of their danger, that a proteſtation, declaring that the ſubſcribers would unite to defend their Religion and Liberties, was taken by almoſt every member of the houſe of Commons *, and by all the Lords, except Southampton and Roberts, who refuſed it on pretence that there was no law which enjoined it. A few days afterwards, by an order of the Commons, the proteſtation was publiſhed, with an explanation that the doctrine of the church, ſpe-

Proteſtation of both houſes.

* The preamble to the proteſtation relates, that the members of the houſe of Commons finding the church in danger from the late bold practices of the adherents of the ſee of Rome, and that there had been and were endeavors, even during the ſitting of parliament, to ſubvert the fundamental laws of England and Ireland, and to introduce an arbitrary government; that through the unhappy breach of parliaments the ſubjects had been vexed with divers oppreſſions, ſuperſtition brought into the church, multitudes driven out of his majeſty's dominions, a Popiſh army levied in Ireland, and two armies maintained in the bowels of the kingdom, to the conſumption of the treaſure of the realm; and finding that endeavors have been uſed to incline the Engliſh army to ſupport by force wicked counſels, have, *&c.* *Ruſhworth*, vol. IV. p. 241.

cified in it to be defended, was only meant ſo far as it was oppoſite to Popery and Popiſh innovations; not to extend to the maintaining any form of worſhip, diſcipline, government, rites, or ceremonies of the church of England. The proteſtation, with this explanation, was recommended by the lower houſe to be taken by the whole nation *. Anno 1641.

The Commons were not deficient in the neceſſary meaſures to defeat the deſigns of their enemies: They ſent cloaths and proviſions to the army, with a letter promiſing the ſpeedy payment of their arrears. The lord Mandeville, Sir Philip Stapleton, and Sir John Clotworthy were ſent down to Portſmouth to inſpect the garriſon, and, if they ſaw cauſe, to ſecure the governor: fifteen barrels of gunpowder, going that way, were ſtayed; orders given that the forces in Wiltſhire and Hampſhire be drawn towards Portſmouth, and the forces in Kent and Suſſex towards Dover. All the ſea-ports were ſhut up, and Strafford made cloſe priſoner. The Commons declared, that whoſoever ſhould give counſel or aſſiſtance to bring any foreign force into the kingdom, unleſs by command of his majeſty, with conſent of both houſes of parliament, ſhould be adjudged as public enemies to the King and kingdom. The queen having declared her intentions to go to Portſmouth, was addreſſed by both houſes to lay aſide her journey.

* The Commons paſſed a bill for the general taking the proteſtation. On the Lords throwing this bill out of their houſe, the Commons paſſed the following votes, and ordered them to be printed; *viz.* That this declaration is fit to be taken by every one who is well-affected in religion, and to the good of the commonwealth; and therefore whoever refuſes to take it is unworthy to bear office in the church or commonwealth. *Parl. Hiſt.* vol. IX. p. 463, *&c. ſeq.*

Anno 1641. On the firſt intimation of a diſcovery, Piercy concealed himſelf, and Jermyn fled the kingdom *. Proclamations were iſſued for apprehending the conſpirators. Goring delivered his evidence before the houſe; and Piercy wrote a letter to the earl of Northumberland, confeſſing all the particulars †: They both agreed in their teſtimonies with regard to the oath of ſecrecy, which circumſtance was denied by Pollard, Aſhburnham, and Wilmot. One captain Billingſly being examined upon oath, confeſſed that Sir John Suckling had offered him promotion; that having notice to attend at the privy lodgings at Whitehall, he there received orders to get an hundred men to ſerve in the Tower under him, being threatened withal, that if he failed he ſhould anſwer it with his life. Sir William Balfour, lieutenant of the Tower, depoſed, that he had orders to receive captain Billingſly, with an hundred men, into the Tower: That at the ſame time the earl of Strafford informed him of his intended eſcape; told him, that without his concurrence it could not be done; that if he would conſent he would make him preſent payment of twenty two thouſand pounds, beſides a good

* Both houſes ſent to deſire the King to prevent any ſervant of his or the queen to abſent themſelves till examination was perfected: this he promiſed to perform; and, notwithſtanding, gave a paſſport to Henry Jermyn. *MS. Journals of the Lords.*

† The King called God to witneſs, that he never knew of any deſign to bring the army up to London. This circumſtance carries a ſtrong mark of Charles's character. It appears by this diſpoſition, ſays Rapin, that ſuch a deſign was propoſed in the aſſembly of officers, but not approved; ſo the King could affirm he knew of no ſuch reſolution, becauſe, in effect, it was never reſolved, though he was not ignorant of its having been propoſed.

marriage for his ſon *: That he, the lieutenant, replied, he was ſo far from concurring therein, that he was not to be farther moved in ſuch a thing. Anno 1641.

The parliament preſented an addreſs for diſarming Papiſts †, and removing them from court ‡, and for diſbanding the Iriſh army. Charles anſwered, that he would take care that there ſhould be no juſt cauſe of ſcandal as to Papiſts; but he met with difficulties in diſbanding the Iriſh army; that it would become the parliament to begin with diſbanding the two armies in England. This anſwer exaſperated the houſes. Tumults daily increaſed. The frightened citizens were every day alarmed with the account of freſh

* He was offered a daughter of Strafford for a match with his ſon. The lord Cottington, conſtable of the Tower, had mounted artillery on its walls; but on a repreſentation of the Commons, the artillery was diſmounted, Cottington's command cancelled, and the care of the Tower wholly conſigned to Balfour. Some time after, the earl of Newport was made conſtable.

† In the Engliſh army there was a troop called Reformadoes. This troop, I imagine, conſiſted of men who had renounced Popery. The houſe of Commons, however, were jealous of them, and ordered the lord-general to diſband them. By the ſame authority, all the officers and common ſoldiers who were Papiſts were turned out of the army.

‡ The parliament complained, that the proclamation which had iſſued out on a former petition againſt Papiſts was very fallacious and unſatisfactory; that they ſtill obtained letters of grace to protect them; and that a complaint had been made before the judges in the King's Bench, that there were above ſix thouſand Recuſants in one pariſh. In the height of that popular odium which the party of Recuſants had incurred, one James, a Papiſt, aſſaulted and ſtabbed with a knife Heywood, a juſtice of peace, for having prepared a liſt of Recuſants to be preſented to the houſe of Commons. This act of violence helped to inflame and alarm the nation to that degree, that Clarendon looks upon it as one of the incidents which hurried on the fate of Strafford.

Anno 1641. conſpiracies. In Lancaſhire great multitudes of Papiſts were gathered together: they held ſecret meetings, and appointed faſts for the ſucceſs of ſome great event; and the prieſts had the imprudence to declare, that the parliament would ſoon be diſſolved, for the Engliſh army was to march up to the aſſiſtance of the King, and that they would be joined by French forces. Intelligence was given of proviſion of arms making beyond ſea. Sir Philip Cartwright, governor of Guernſey, wrote word, that he heard the French had a deſign on that iſland, or on ſome part of England. From letters which were ſtopped going to and coming from France, it appeared, that the earl of Strafford was expected there, and that the cardinal had been ſolicited to interrupt the proceedings of the parliament *.

* The following are paſſages of a curious letter written from Father Philips, the queen's confeſſor, to Wat Mountague, a Papiſt in France. "The good King and queen are left very naked: the Puritans, if they durſt, would pull the good queen in pieces. Can the good king of France ſuffer a daughter of France, his ſiſter, and her children, to be thus affronted? Can the wiſe cardinal ſuffer England and Scotland to unite, and not be able to diſcern that in the end it is like they will join together, and turn heads againſt France? A ſtirring, active ambaſſador might do good here. I have ſent you a copy of the King's ſpeech on Saturday laſt, at which time he diſcharged his conſcience concerning the earl of Strafford, and was adviſed to make that ſpeech by the earl of Briſtol and lord Saville."

Father Philips proceeds to give an account of tumults which happened at this time: "The King is much dejected, adds he, the Lords much affrighted, which made the citizens and the houſe of Commons ſhew their heads. Some have braved little leſs than to dethrone his majeſty, who, if he had but an ordinary ſpirit, might eaſily ſuppreſs and quaſh theſe people."

Clarendon accuſes the lord Say of having, with a treacherous deſign, adviſed the King to make a ſpeech in favor of Strafford. Father Philips is at this time a better authority for

Twenty thouſand inhabitants of London, of good rank and quality, preſented a petition to both houſes, that they would determine the fate of Strafford; it complained of grievances unredreſſed; and that the incendiaries of the kingdom, and other notorious offenders, were left unpuniſhed. The names of the fifty-nine Commoners who voted againſt the bill of attainder were paſted up, under the title of Straffordians and betrayers of their country *. The Spaniſh Anno 1641.

for what related to the ſecrets of the court. *Ruſhworth*, vol. IV. p. 257. vol. VIII. p. 751.

* In this liſt was the lord Digby, who, to the ſurprize of all his hearers, had made a very warm ſpeech in the houſe againſt the bill of attainder. This light young man had entered with great vehemence into the oppoſition; and his eloquence had gained him ſo much reputation with the party, that he was appointed one of the managers to ſupport the charge againſt the earl of Strafford. This he did with ſuch judicious acrimony, that when Strafford excepted againſt the lord Corke as a witneſs, becauſe he might be influenced by reſentment for received injuries, Digby replied, "Truly if ill will to my lord Strafford ſhould be an exception to a witneſs, I am afraid there will be few in the three kingdoms whoſe teſtimonials will not be prejudiced." He was not leſs ſevere upon this offender in his ſpeech for triennial parliaments; "He muſt not hope to be forgiven in this world, ſaid he, till he is diſpatched to another." Notwithſtanding this appearance of zeal in the cauſe of juſtice and his country, Digby had enliſted under the banners of Liberty on no one ſolid principle. His patriotiſm aroſe from the reſentment of the affronts his father had received from the King, and his having been himſelf ſent to the Fleet on a trifling occaſion. On his becoming conſiderable in the lower houſe, he found a very different reception at court, and became ſo intoxicated on receiving ſome ſmiles from the queen, that he entered with impetuoſity into the meaſures of the crown; was the undertaker and executer of all the low ſchemes forged at Whitehall; and was ſo baſe, that, being one of the committee appointed to manage the proſecution againſt Strafford, he ſtole away the paper of Sir Henry Vane's notes, and made a ſolemn proteſtation to the houſe that he did not convey it away, nor did he know what was become of it. Strafford's Letters, vol. I. p. 261, & ſeq. Whitlock.

Anno 1641. ambaſſador, whoſe houſe was a notorious receptacle of Papiſts, was inſulted by the mob. The queen-mother, who remained ſtill in England, was ſo terrified with the curſes and imprecations of the people, that ſhe deſired to have a guard: no ſoldiers could be found who would undertake the employment. This being repreſented to the houſe, they agreed, that her perſon ſhould be protected by a guard, but at the ſame time deſired ſhe might be moved to leave the kingdom, for the quieting peoples' jealouſies, occaſioned by ill inſtruments about her perſon, and the flocking of prieſts and Papiſts to her houſe *. The bill of attainder not having yet paſſed the Lords, the people, with loud cries for juſtice, crouded round that houſe, and when any one of that body, who were thought not to favor the bill, appeared, they were ſurrounded by the populace, who profeſſed that they would be governed and diſpoſed by the honorable houſe of Commons, and defend their privileges according to their late proteſtation. At length, when the dependants on the crown were frightened from their attendance by the rage of the people, the bill of attainder paſſed, with nineteen diſſenting votes, the houſe being compoſed of forty-five members †.

Bill of attainder againſt Strafford paſſes the Lords. 7 May.

* Sir John Holland, in a ſpeech he made concerning grievances, complained, that foreigners and ſtrangers were entertained at the exceſſive charge of the crown. The allowance Charles I. made the queen-mother was one hundred pounds per day. *Parl. Hiſt.* vol. IX. p. 75. *May's Hiſt.* book I. p. 108.

† The following clauſe is in the bill of attainder; "Provided, that no judge or judges, juſtice or juſtices whatſoever, ſhall adjudge or interpret any act or thing to be treaſon, nor hear or determine treaſon, in any other manner than he or they ſhould or ought to have done before the paſſing this act." This clauſe, which relates to judges in inferior courts, is con-

The paſſing this bill was not the only advantage the popular party gained by the terror and reſentment of the public on the diſcovery of the late plot. All the money for the payment of the armies, and the gratifying the Scots, had been raiſed in the city of London; ſome part of it on the credit of particulars who were members of the lower houſe. Theſe creditors began now to conſider on the deſperateneſs of their ſituation, if the parliament ſhould be ſuddenly diſſolved before an act paſſed for their indemnification. The commiſſaries of the money-negotiation ſaid, there was no hope of borrowing more money on the ſlender ſecurity of parliament, ſince it had been found out, by the late diſcovery of a plot, that there was no good meaning towards that aſſembly. To obviate theſe difficulties it was agreed, that a bill ſhould be prepared, that this parliament ſhould not be adjourned, prorogued, or diſſolved, but by act of parliament. It was urged, that this expedient was the only way to calm the fears of the people, and ſatisfy them that the King's intentions were gracious; that for this reaſon he could never deny his aſſent. The motion was received with univerſal approbation: a ſhort bill was prepared, and paſſed the Anno 1641.

conſiſtent with all the arguments urged by the Commons for the legality of their proceedings againſt Strafford; the ſtatute of the firſt of Hen. IV. cap. xvii. being, as they aſſerted, to take away the parliamentary power of declaration of treaſons, whereby the inferior courts receive juriſdiction, and reſtrain it to bill, that it might operate no farther than to the particulars contained in the bill. This clauſe of the Commons, in the bill of attainder againſt Strafford, ſhews a very laudable attention to the preſervation of public Liberty; yet it has been repreſented by monarchical writers, that the bill of attainder was of ſo extraordinary a nature, that the legiſlators themſelves were obliged to inſert a clauſe that it ſhould never be drawn into precedent.

Anno 1641. houſe with little oppoſition; the Lords propoſed an alteration, that the time ſhould be limited, and not be left indefinite; but the Commons ſtanding firmly to their own bill, the Lords gave up the point, and paſſed it without any alteration.

Bill for continuing the parliament paſſes both houſes.

During theſe tranſactions, the King's ſituation was truly pitiable: His imprudence had raiſed a ferment through the whole kingdom, which threatened a dangerous commotion; nor could he, in the preſent exigences, find any reſource, or other ſecurity for his perſonal ſafety than ſubmitting to the will of the people. The judges, on being conſulted, declared the bill was legal, and that the earl was guilty of treaſon. The privy-council, without one of the body venturing to interpoſe other opinion, told him, that there was no other way to preſerve himſelf and poſterity than by paſſing the bill of attainder againſt Strafford. The queen became an importunate ſolicitor for his death: ſhe was driven to this by her fears, and the artful inſinuations of ſome of her confidants, particularly the earl of Holland, who flattered her with hopes, that, on the death of Strafford and Laud, her authority over the King would be yet more abſolute; and ſhe might, by interpoſing her influence towards obtaining what was ſo ardently deſired by the public, gain ſome intereſt with the popular party. The King, in his anxiety of mind, put the caſe of conſcience to ſeveral biſhops; they applied themſelves to remove his ſcruples: among theſe was Williams, who, notwithſtanding his former diſcouragements and ill uſage, cringed and fawned to Charles* and

* Beſides the proſecutions already mentioned, Laud had entered another againſt this prelate, in order to degrade him. Williams appealed to a parliament; but the difficulties of the miniſtry

his party, and on theſe merits was promoted to the archbiſhopric of York. Williams ſtated the caſe to him in the following manner: "Whether, as his majeſty refers his own judgment to his judges, in whoſe perſon they act in the courts of law, and it lies on them if an innocent man ſuffer, his majeſty may not ſatisfy his conſcience in the preſent matter, that ſince competent judges in law have awarded, that they find guilt of treaſon in the earl, that he may ſuffer that judgment to ſtand, though in his private mind he is not ſatisfied that the lord Strafford is criminal?" Anno 1641.

This is a ſenſible ſtate of the queſtion, which was in reality a point of honor, not of conſcience; ſince a King of England ought never to interpoſe his private opinion againſt the other parts of the legiſlature, and what is declared by the proper judges to be the law of the land. The queſtion by Charles ought to have been conſidered in this light; Whether as Strafford's guilt was incurred with his approbation, under the aſſurance of his ſupport and protection, the laws of honor bound him to run the hazard of his perſonal ſafety, to-

miniſtry increaſing, the affair was dropped. Williams had lain above three years and an half in the Tower when this parliament met: he in vain petitioned the King for his liberty, and his writ as a peer to ſit in parliament. The houſe of Lords, ſixteen days after their meeting, ſent an order to the lieutenant of the Tower to deliver him, and he was conducted by their uſher to the houſe. Williams had drawn up an hiſtory of his ſufferings, with an intention to preſent it to the parliament; but he no ſooner was in a capacity to perform ſervile offices for the crown, than he oppoſed all the popular motions in a manner which at length drew ſome civilities from the King, who ſent to confer with him concerning his affairs, directed all orders filed againſt him to be eraſed, promoted him to the ſee of York, and permitted him to hold his deanry of Weſtminſter *in commendam*. *Hackit's Life of Williams*, fol. & oct. ed.

Anno 1641. gether with the peace of the kingdom, to make good that criminal promiſe. Laws of honor, ſuch as theſe, are artificial bonds, calculated for the preſervation of individuals, aſſociated in illegal combinations, and ſubſcribed to by men, who, having thrown off all civil ties, have no rule of ſafety but from mutual confidence, and the hardy reſolutions of their companions in villainy. If a ſteady adherence to ſuch principles may be eſteemed laudable among a licentious banditti, they cannot, I think, be ſuppoſed to bind a monarch in his royal capacity. Charles's ſcruples, however, were invincible; and he was at length brought to paſs the act, though he thought in doing it he committed an unpardonable crime.

It is ſaid, that what determined him was a letter from Strafford, in which he intreated him to put an end to his unfortunate, however innocent, life; and quiet the tumultuous people by granting them that requeſt for which they were ſo importunate. "My conſent, ſaid the writer, will more acquit you to God than all the world can do; beſide, to a willing man, there is no injury *. And as, by God's grace, I forgive all the world with a calmneſs and meekneſs of infinite contentment to my diſlodging ſoul, ſo, Sir, to you I can reſign the life of this world with all imaginable chearfulneſs." It is ſaid that this letter was dictated by deſpair, and that Strafford had certain intelligence that he ſhould be deprived of his life in the Tower, if the King refuſed to paſs the bill. It is probable, that he wrote the letter with an intention to excite the King to make an effort

* The King had ſent a letter to Strafford during his confinement, in which he aſſured him, upon the word of a King, that he ſhould not ſuffer in life, honor, or fortune. *Strafford's Letters*, vol. II. p. 416.

to

to ſave him. It is certain, he ſhewed ſigns of diſappointment and ſurprize when he was informed by ſecretary Carleton, that the King had granted a commiſſion to four lords to paſs the bill of attainder. It was with ſome difficulty he could believe the fatal tidings; but on being aſſured of their certainty, he roſe up from his chair with marks of aſtoniſhment and horror, lifted up his eyes to Heaven, laid his hand on his breaſt, and exclaimed, "Put not your truſt in princes, nor in the ſons of men, for in them there is no ſalvation." Anno 1641.

The commiſſioners appointed to paſs the bill of attainder were at the ſame time impowered to give the royal aſſent to the bill for the continuance of the parliament. Charles, tortured with the pangs of ſhame and remorſe for the yielding to Strafford's doom, paſſed this bill without attending to its importance. One fruitleſs effort was made to ſave this unfortunate miniſter: He ſent a letter to the Lords, deſiring that he might fulfil the natural courſe of life in a cloſe and perpetual impriſonment, but concludes, "If no leſs than his life can ſatisfy my people, I muſt ſay *fiat juſtitia.*" To this was added a poſtſcript: "If he muſt die, it were charity to reprieve him till Saturday *." This letter of interceſſion, though delivered by the prince of Wales, did not alter the preſent determinations of the Lords: they deputed twelve of their houſe to ſatisfy the King, The King conſents to Strafford's attainder, and to the bill for continuing the parliament. May 10.

* Burnet ſays, that he was told by Holles himſelf, whoſe ſiſter Strafford had married, that he drew up a petition for Strafford, and a ſpeech for the King to make to both houſes in his favor; that the queen not only prevented the King's going to the parliament, and changed the ſpeech into a meſſage, but prevailed with him to add the poſtſcript, "If he muſt die, it were charity to reprieve him till Saturday." *Burnet's Hiſt. of His Own Times*, vol. I. p. 82.

that

Anno 1641. that even a delay of Strafford's execution would endanger his own and his family's ſafety. Charles yielded to the neceſſity of the juncture, and told the Lords, that he did not mean to ſave Strafford to his peoples' diſcontent. The twelfth of May was appointed for the execution, and Strafford, being ſenſible that all endeavors to poſtpone it would be ineffectual, preſented a petition to the Peers, praying for their interceſſion with the King in behalf of his children; and prepared himſelf for death.

In theſe moments of terror, he wanted that conſolation which ſupports innocence when oppreſſed by the ſtroke of power; he wanted that fore-taſte of glory which accompanies great characters, when ſuffering in the cauſe of virtue; he wanted the compaſſion of mankind, which commonly attends the diſtreſſed. Deprived of theſe ſuccours, he found in ſuperſtition, that cordial to the weak and wicked, ample reſources on this tremendous occaſion. Strafford, in the courſe of his adminiſtration, had been a great promoter of what was called the cauſe of God; *viz.* the intereſt of the church: many of his oppreſſions in his Iriſh government were committed with a view to enrich churchmen, and exalt the power of the hierarchy. This was regarded by Laud as the moſt orthodox of Chriſtian virtues. Although Strafford had directed his conduct in this point to the ſole view of promoting his intereſt with this prelate, yet he flattered himſelf he had attained great merit in having been a promoter of the glory of the church; and, as his oppreſſions on this head were part of his accuſation, he eſteemed himſelf a kind of martyr to the cauſe of God. The day before his execution he had earneſtly ſolicited an interview with

with Laud; on being denied, he ſent him a meſ- Anno 1641.
ſage, that he deſired his prayers that night, and his bleſſing on the morning.

In paſſing from his apartment to Tower-Hill, Strafford's execution.
he ſtopped under Laud's windows, and entreated the aſſiſtance of his prayers in thoſe awful moments which were approaching. A very tender ſcene paſſed between theſe fellow-ſufferers, who had been aſſociates in power: the aged prelate, diſſolved in tears, pronounced, with a broken voice, a bleſſing on his departing friend and convert; then, over-preſſed with the tide of ſorrow, ſunk down in the arms of his attendants. Strafford, with a determined countenance, marched on to meet his fate: Archbiſhop Uſher, primate of Ireland, attended him on the ſcaffold. On ſeeing his brother Sir George Wentworth weeping, he told him not to lament, but rejoice in his innocence and approaching happineſs; that no thoughts of envy, no dreams of treaſon, jealouſies, or cares for the King or ſtate, or for himſelf, would interrupt that eaſy ſleep. He then kneeled down, and, in a ſolemn manner, made a proteſtation, that as far as he could underſtand he was not guilty of the crime laid to his charge, nor ever had intention to prejudice the King, the ſtate, the laws, or the religion of the kingdom *. He deſired leave to make a ſpeech to the people: In this ſpeech he aſſerted, that he was very far from being againſt parliaments, and did always think parliaments to be the happy conſtitution of the King and kingdom, and the beſt means under God to make the King and his people happy †. He

* He thought it no prejudice to the ſtate or church to aſſiſt both in the attaining arbitrary power; but the queſtion was, whether it was prejudicial to the people?

† In this ſtrong aſſertion, Strafford certainly meant dependent

Anno 1641. profeſſed, that he was an obedient ſon of the church of England, and wiſhed proſperity and happineſs might ever attend her. He ſent a charge to his ſon to prove a faithful ſubject to the King, and to beware of meddling with church-livings, for that would prove a canker to him in his eſtate; and adviſed him to be a ſervant to his country, as a juſtice of the peace in his county, not aiming at higher preferments. Having bid a laſt adieu to his brother, and the friends who attended him, and ſent a bleſſing to his abſent relations, he added, "I have now nigh done; one ſtroke will make my wife a widow, my dear children fatherleſs, deprive my poor ſervants of their indulgent maſter, and ſeparate me from my affectionate brother and all my friends: but let God be to you and them all in all." On preparing himſelf for the block, he ſaid, "I thank God I am no way afraid of death, nor am daunted with any terrors, but do as chearfully lay down my head at this time, as ever I did when going to repoſe *." The executioner performed his fatal office with one blow.

Thus, by the ſtroke of juſtice and the voice of his country, in the forty-ninth year of his age,

dent parliaments, the greateſt curſe the nation can, in a political ſenſe, be afflicted with. He could never mean independent ones; that is contradicted in all his documents of government delivered in private.

* There are two ſpeeches in Somers's Collection of Tracts, pretended to have been compoſed by Strafford; one ſpoken to ſome lords who attended him in the Tower immediately before his execution, the other intended to be ſpoken at his death. They are full of contrition for his paſt conduct; and the ſtyle ſo different from the account generally given of his behavior, from his profeſſions, from his advice to his family, and from his character, and the ſtrong prejudices he had imbibed in the latter part of his life, that there is great reaſon to ſuſpect their authenticity.

died

died Thoms viſcount Wentworth and earl of Strafford. His fate has been lamented and loudly exclaimed againſt by many writers, who allege that the ſentence by which he fell was not according to ſtatute-law, and therefore iniquitous. This is an aſſertion contrary to fact, ſince part of the crimes for which he was condemned was levying war, within the ſtatute of the twenty-fifth of Edw. III. and ſeſſing ſoldiers, within the Iriſh ſtatute of the eighteenth of Hen. VI. Yet, allowing this aſſertion to be true, in the beſt regulated governments, circumſtances may ariſe of ſo peculiar and urgent a nature, as to render it neceſſary for the legiſlative power to exceed the ſtrict letter of the law. England could not at this time be called a ſettled government, ſince the King, by his illegal adminiſtration, and violent attempts to ſubvert the conſtitution, had introduced a ſtate of confuſion, which rendered acts of power neceſſary expedients to reinſtate the people in their long loſt privileges, and give to violated laws their due authority; not to mention that combination of circumſtances which rendered the death of Strafford abſolutely neceſſary to the ſafety of reviving Liberty. Never was criminal executed on principles of ſtricter equity, nor was ever the life of a bad citizen more juſtly due to an injured country. Anno 1641.

Strafford is one of the heroes of the monarchical party, and moſt hiſtorians agree he was a great man; but none of them have taken pains to delineate his character, or tell us what were the eminent qualities of his head or heart which conſtitutes that greatneſs. It has been alleged, that Strafford was a great ſtateſman; a character of the higheſt eſtimation in its juſt ſenſe: but, in that His character.

Anno 1641. that exalted appellation, nothing more is meant by the vulgar than being a proficient in the narrow circle of miniſterial juggling—the abilities of a Scapin, to cheat the credulous and unwary! A knowledge in the extenſive ſcience of politics, the different conſtitutions of different ſocieties, the juſt intereſts of nations, and the operative effect which political inſtitutions have on the public weal, when united to a head and a heart capable of employing it to the real ſervice of mankind, conſtitute the character of a great ſtateſman. In the latter ſenſe Strafford will be found totally deficient; in the other he muſt be allowed to excel. His talents were of that inferior kind which are always found united to a baſe mind: the badneſs of his heart had ſo corrupted his judgment *, that at the time when he was engaged in the defence of the Liberty of his country, he does not ſeem to have been actuated by any juſt, honeſt, or liberal principle. He was too ignorant of the nature of the conſtitution, and the laws of England, to form a right judgment of the ſtate of the queſtion between the King and his people †: and entered into the quarrel with a factious view to oppoſe particular perſons to whom he had an inveterate enmity, and to make himſelf of conſequence enough to be noticed by the miniſtry. His patriotiſm diſſolved on the firſt beam of court favor; he was intoxicated on the firſt taſte of power, and became a more bold and zealous inſtrument of tyranny than any miniſter this country

* Or rather, the badneſs of his judgment had corrupted his heart.

† He was ſo ignorant of the conſtitution of England, that, if in his letters and diſpatches he ſpeaks his real ſentiments, he had no other idea of the duty of office but that of perſonal ſervice to the King.

ever

ever produced. He was of a revengeful, inſolent diſpoſition; but his ſupreme vice was an inſatiable ambition, directed to falſe and unlawful objects. Among his weakneſſes we may reckon his vanity: This was the ſource from whence flowed his crimes, and this the prime cauſe of his misfortunes. No inſtance can give us a juſter idea to what a height he poſſeſſed this contemptible folly, than his perſecution of many people for not complying with thoſe ſervile ceremonies which he imagined due to his authority. His revival of ſeveral foppiſh formalities of ſtate, during his command in Ireland, is another example of the ſame kind. In all his letters to the King, and his patron Laud, he aſſumed to himſelf great merit and importance; whilſt he degraded the ſervices of every other man, excepting thoſe of his own creatures. His behavior was inſolent to his fellow-ſubjects, and abject to his prince. He was continually ſtimulating him to acts of tyranny, by repreſenting, in phraſes bombaſt, the ſublimity of his power, and that it was neceſſary to curb the inſolent oppoſition of his ſubjects, by ſevere and vigorous meaſures. Laud he conſtantly courted, becauſe he knew the abſolute power this prelate had obtained over the King. Such was the man whom the world has loaded with applauſe.—His talents as an orator have been much admired: the concluſion of his defence is infinitely preferable to any other of his productions of this kind. In his general ſtyle of writing and ſpeaking there is an inſolence, a petulance, a vulgar quaintneſs, which mark the genius and diſpoſition of the man, and which ran through the whole tenor of his conduct. The criminality and arrogance of his behavor rendered him ſo dangerous and obnoxious, that no Anno 1644.

Anno 1641. leſs than three kingdoms engaged with warmth in his proſecution; and the ſentence of death paſſed upon him gave univerſal ſatisfaction *. The indulgence, therefore, with which his memory has been treated can have no other riſe than from the prejudices of party and his fatal end. The axe and the halter are excellent ſpecifics to ſubdue anger and ſoften reſentment.

* Sir Philip Warwick, a cotemporary writer, tells us, that in the evening of the day on which he was executed, the greateſt demonſtrations of joy which could poſſibly be expreſſed ran through the whole town and country. Many came up to town on purpoſe to ſee the execution, and rode in triumph back, waving their hats through all the towns and villages through which they paſſed, crying, "His head is off! his head is off!" *Warwick's Memoirs*, ed. 1701, p. 163, *& ſeq.*

APPENDIX.

APPENDIX.

I HAVE ventured to give the following abſtract of all the arguments which were urged in the great trial of Ship-money. I am ſenſible that the pleadings of Mr. St. John, Mr. Holbourn, and the arguments of Sir George Crook, muſt be greatly injured by an abridgment; my deſign in this epitome is to excite the reader to peruſe this important trial at length.

Mr. St. John began his argument by allowing, that there was a ſupreme power inherent in the monarch, for the government and defence of the kingdom; he ſhewed the method and known rules which the law of England had ordained, for applying that power to the intended end. After going through all the forms of adminiſtration which the law preſcribes for the common government of the kingdom, he ſhewed that the aſſiſtance of parliament was neceſſary in all caſes which did not come within theſe forms: That the King could not, out of parliament, alter the old laws, nor make new; nor make any naturalizations nor legitimations, nor ſeveral other things: That in many caſes, without the aſſiſtance of parliament, he could not communicate either his juſtice or his power to his ſubjects: That if this writ, which gave power to ſell and alter the property of the defendant's goods, hath iſſued from his majeſty otherwiſe than in parliament, where he ſtands in the height of ſovereignty and perfection, the queſtion was, Whether erroneouſly iſſued or not? In the ſtating this great queſtion, Mr. St. John ſaid, he would endeavor to preſent to their lordſhips thoſe known and undoubted ways and means whereby the law had provided for the defence of the realm, both at land and ſea, without the way in the writ: That the firſt was by tenure of lands; the ſecond by the many prerogatives which the law had ſettled in the crown, and made peculiar for the defence of the kingdom in general; the third was the particular ſupplies of money for the defence of the ſea alone

in times of danger ordinary and extraordinary. Mr. St. John then ſhewed the nature of military ſervice, as eſtabliſhed in this kingdom by William the Norman; that with this the law had appointed divers prerogatives for the extraordinary charge of government, and for defence of the realm; theſe were veſted in the King *jure coronæ*, to be employed for the public good. The reaſon why the King had treaſure *trové*, and gold and ſilver mines, in the caſe of mines, was declared to be, becauſe the King is hereby to defend the kingdom. Mr. St. John then quoted law-caſes; the ſtatutes of the 14 Ed. III. the advice of the lords of the council in Richard II.'s time; the petition of the Commons in the ſame reign, to prove that the conſtitution had aſſigned all the profits of the crown, but the King's perſonal revenue, for the defence of the kingdom. The third way was particular ſupplies of money; for where the law put the King to any particular charge for the protection of the ſubject, it always enabled him thereto. The courts of juſtice were ſupported by fines, amerciaments, *&c. &c.* For the defence of the church, the King had temporalities of biſhopries *ſede vacante*, firſt-fruits and tenths, and the tithes of all land which lay not within any pariſh. Mr. St. John then entered into the hiſtory of tonnage and poundage, and ſhewed, by the wording of the grants in the parliament-rolls, that this tax was not only given for the protection of the merchants, and the ordinary defence of the ſea, but for its defence in times of extraordinary danger, and from invaſion: That it was declared in the ſtatute of 14 Ed. III. that aids, though granted in parliament for defence, ſhould not be brought into example, in that it might be conceived the Commons were to bear that charge, which principally belonged to the King: That his majeſty, *de facto*, took tonnage and poundage, though not granted by parliament; and in the eleventh year of his reign, when this writ firſt iſſued out, he took upwards of 300,000 l. upon it: That his majeſty was pleaſed by his proclamation, printed 1626, to declare that theſe cuſtoms were always granted to his progenitors for guarding the ſeas, and the ſafety and defence of the realm: That he did, and ſtill muſt purſue thoſe ends, and undergo that charge for which they were firſt granted to the crown; and that he received them for the guarding the ſeas and defence of the realm. Mr. St. John next

alleged, that as the law had put the great truſt of the defence of the realm upon his majeſty, ſo when the ordinary ſupplies failed, it had provided other ways for a new ſupply: theſe were the extraordinary aids and ſubſidies granted in parliament. To prove this, Mr. St. John quoted the words of the ſummons, and ſeveral inſtances in each King's reign, on which this aſſembly was called together to conſider on means for the defence of the realm. He farther proved, that this was the only way for an extraordinary charge, by the means which paſt Kings were obliged to take when they did not apply to this remedy; loans and benevolence demanded with promiſe of repayment, anticipating their rents. After enumerating theſe inſtances, he added, "That it could not be imagined that ſo many powerful princes would bind themſelves to repayment of what they might take as a right; and that without any ſalvo of their rights." Mr. St. John next objected to the uncertainty of the way intended by the writ; that the law delighting in certainties, to the end the ſubject might be ſure of ſomewhat which he might call his own, had made all thoſe things which the King challenged as peculiar to himſelf from the ſubject, either certain in themſelves, or reducible to a certainty, either by the judges, jury, or parliament. After proving this by the rule of law, he added, "My lords, to apply all to the thing in queſtion, there is a cauſe for raiſing money for the defence of the realm, *non definitur in lege*, what will ſerve the turn? If his majeſty, as in the writ, may without parliament lay twenty ſhillings upon the defendant's goods, I ſhall humbly ſubmit it to your lordſhips, why, by the ſame reaſon of law, it might not have been twenty pounds, and ſo *ad infinitum*; whereby it would come to paſs, if the ſubject had any thing at all, he ſhould not be beholden to the law for it, but is left entirely to the mercy and goodneſs of the King." Mr. St. John ſaid, that theſe were his reaſons for objecting to the legality of the writ. He ſhould now come to the ſecond kind of proof; authorities that his majeſty could not tax his people for ſetting forth of land-forces for defence; for making and maintaining forts and caſtles for defence; for victuals for a defenſive army; for maintenance of priſoners taken in a defenſive war; for pledges and hoſtages given by foreign ſtates for the keeping of peace: "If, added he,

his majeſty cannot tax his people for the five ſupports of a defenſive war, I ſhall then offer it to your lordſhips, whether it can be done at all?" Mr. St. John quoted precedents and ſtatutes to prove that the ſubject was not taxable either for wages, or victuals, or otherwiſe for finding ſoldiers out of their counties, though for defence of the kingdom; and that by the ſtatute of Running mead, his majeſty could not tax his own tenants, nor proportion the fine according to his pleaſure: if he could not do it when the tenant held lands *ad exercitum*, for the defence of the kingdom, much leſs could he do it where there was no tenure for that purpoſe. Mr. St. John then quoted acts of parliament *anno quarto* William the Norman, ſtatute of Running-mead 17 John, the ſtatutes of 25 Ed. I. and the ſtatute *De tallagio non concedendo*, the ſtatute of the 14 Ed. III. the ſtatutes of the 25 Ed. III. againſt loans and benevolences; the 1 Richard III. and the 31 Hen. VIII. for proclamations, in which it was enacted, That the King's proclamations ſhould be made equivalent to an act of parliament, but with a full exception of the ſubjects' lands, goods, and chattels. Mr. St. John fortified theſe authorities by many precedents; among theſe was the reſolution of the Lords ſpiritual and temporal in the 2 Ric. II. who, when the King was beſet with enemies, France, Spain, and Scotland, agreed that the Commons could not be charged but in parliament; and therefore, as the neceſſity was urgent, they lent money for the preſent, with advice to call a parliament: this was afterwards declared in parliament, and entered upon the roll without any qualification. Mr. St. John alſo urged the commiſſion iſſued 3 Car. to raiſe money by impoſition or otherwiſe, which, without extreme danger to the King, kingdom, and people, can admit no long delay, wherein form and circumſtances are to be diſpenſed with rather than the ſubſtance loſt. "This, my lords, obſerved Mr. St. John, was a commiſſion to tax the ſubjects in time of neceſſity for defence. In the laſt parliament, this commiſſion, as againſt the law, was condemned by both houſes, and cancelled in his majeſty's preſence." Mr. St. John aſſerted that tonnage and poundage, when firſt granted for life, was, that the King might always have money ready upon ſuch ſudden occaſions. The laſt precedent he quoted to ſtrengthen his arguments, was the commiſſion of loans in

2 Car. queſtioned afterwards in the parliament 3 Car. and upon debate adjudged by both houſes to be void in law by the Petition of Right; preſented ſo to the King, his majeſty did not deny it. Mr. St. John opened his laſt day's argument with the proof, that the ſea had no ſuch peculiarity in it but that it would fall within that of the defence in general: he took his authority as high as Dane-Gelt, a tax granted in parliament on the frequent invaſion of the Danes in the time of Ethelred, afterwards releaſed by Edward the Confeſſor. He urged the frequent complaints which the Commons, in the earlieſt times of the Norman monarchy, had made on the infringement of their liberties, in this particular of attempting to tax them for defence of the ſea; commiſſions repealed by the authority of parliament which had been iſſued by the monarch, to charge the people to make ſhips for the defence of the realm; and the acknowledgments of former Kings, that they could not, without the parliament, charge the people with ſafe-keeping of the ſea; the reſolution of the ſages of the kingdom in Ric. II.'s time, who lent money to provide an army for the ſea till a ſupply could be raiſed in parliament. Mr. St. John finiſhed his learned argument with obſerving, that the Cinque-Ports had divers privileges; ſuch as being free from all aids and ſubſidies granted in parliament, from all tolls, murage and pontage, throughout the realm, for a certain ſervice of fifteen days in a year, and the number of ſhips certain; that when their charge in the number of men and ſhips exceeded two, allowance by the King was to be made them, as appeared by the quire of Dover, and Par. roll of 7 Hen. VII. Par. roll of the 19 Hen. III. &c. "My lords, concluded he, if theſe ports who are bound to the defence of the ſea, when they have performed that their ſervice, be not compellable to any farther charge, I ſhall humbly offer it to your lordſhips, whether thoſe who be not bound at all, from the ſame reaſon, are chargeable at all." Mr. St. John in the courſe of his argument ſaid, that before the parliament of Lincoln, 29 Ed. I. all things concerning the King's prerogatives, and the ſubjects' liberties, were altogether upon uncertainties. The ſtatute of Running-mead, Magna-Charta, Charta de Foreſta, had been confirmed at leaſt eight times from 17 John unto the 29 Ed. I; and yet not only the practice, but

but likewiſe the judges, went clear contrary to the plain, both words and meaning of them. By the ſecond chapter of Magna-Charta, a baron *pro baronia integra*, was to pay but one hundred marks for his relief; the practice and proceſs of the Exchequer till 29 Ed. I. were always for this relief, one hundred pounds, *&c.* That the matter of fact in theſe years, to the violation of the ſubjects' right, procured the ſtatutes which were afterwards enacted, as the ſtatute *De tallagio non concedendo*, and others.

Sir Edward Littleton, ſolicitor-general, pleaded as follows: "I ſhall ſhew the King's right from the foundation of the kingdom to that which they call the Norman conqueſt; from the Norman conqueſt to the time of Magna-Charta 9 Hen. III. from Magna Charta to the ſtatute *De tallagio non concedendo* 25 Ed. I. from the ſtatute *De tallagio non concedendo* to the firſt granting tonnage and poundage; from tonnage and poundage to this very day; and that the Petition of Right does no way concern the diſpute. I ſhall confute all precedents, objections, reaſons, inconveniences, authorities, or records, of which a great number were cited, that there ſhall not be a ſyllable left: and in that, firſt, I will either ſhew, that the record is miſtaken or impertinent, and not to the queſtion; or, ſecondly, thoſe which are pertinent, I will either agree them, or take the force of them away, that none of them ſhall be able to ſtand in the way of the King in this way of defence." After this flouriſh, Mr. Solicitor began quoting the rule of *ſalus populi ſuprema lex*, and grounded his argument on the doctrine of neceſſity: "Poſitive laws, ſaid he, are abrogated by reaſon, when the ſafety of the kingdom and people are in danger." He quoted the proceedings in 1588, when the whole kingdom was in conſternation, that directions were given to keep the enemy from landing; if they could not keep them from landing, to burn down houſes, *&c.* If an enemy approach, a man may make bulwarks and forts on another's ſoil, 21 Hen. VII. *&c.* If a ſubject can be enabled without parliament to do this, ſhall not the King, who is *pater patriæ*, do the like for the defence of the whole? A man may pull down the houſe of another when the next houſe is on fire. If two men are fighting a man may part them, and put them into ſeveral houſes, becauſe it is for the good of the commonwealth. If a madman be abroad, he may be taken, whipped,

whipped, and impriſoned, leſt he do violence to himſelf and others. A ſurgeon may cut off one member to ſave the reſt. If a ſtorm ariſe at ſea, to caſt out goods into the ſea is lawful for the ſafety of the other goods, &c. What talk we of formalities when we are like to loſe the kingdom, when the keeping the laws would end the commonwealth? Mr. Solicitor quoted examples to ſhew that every man was bound to defend the kingdom when attacked; and was not the king as much lord of the ſea as the land? It was a Droit Royal to meddle with war and peace: ſubjects have nothing to do with it; true, Henry VII. brought military diſcipline into the parliament to advance his own ends. Sometimes dangers are fit to be communicated to the people, ſometimes not; they had authorities, which he conceived were full examples in point: theſe, though not ruled in particular courts of juſtice, were ſtronger than any judgments. If men would pay, what need judgments? Though he found not direct authority in printed books, yet records were as good teſtimonies and greater than reports: Thoſe which concern *jus publicum* come not into ordinary debate, but remain *inter arcana imperii*, and thoſe would ſpeak fully. If precedents were not ſo full in the years of king Stephen and Henry IV. who were uſurpers, it is no wonder: If they had had right to the crown, as his majeſty hath, they would not have uſed compliments. Before the Conqueſt, he found that king Edgar had his tenants, who ſwore to co-operate with him *per terram & per mare*. He denied that Danes-Gelt had ever been releaſed: and affirmed, that after Magna-Charta, and the ſtatute of *Tallagio non concedendo*, Kings had layed impoſitions on their ſubjects. In 1588 the city of London was deſired to find ten ſhips; of themſelves they deſired to find twenty: theſe was the affection of thoſe times; they did not diſpute, but were ready to obey. In 1599 great troops were aſſembled at London for defence of the Queen, when the tumult was about the earl of Eſſex. In King James's time theſe were not much: His motto was, *Beati pacifici*. 10 July 2 Car. a proclamation iſſued that all people ſhould make ſpeedy repair to ſeveral places, and ſhould continue during the danger; and for a binding authority, 12 Car. the reſolution of all the judges under their hands, and inrolled in every court at Weſtminſter: a man ſhould have thought

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that that ſhould have given ſatisfaction; it would have done ſo in former times. Mr. St. John objects, That in his majeſty there is *voluntas interna* and *externa*, his inward will which he doth declare in his chamber, and his legal will; and withal, that the King cannot judge himſelf, 2 Rich. II. fol. 10, 11. Can that be wanting in the fountain which iſſues in the ſtream? that I utterly deny. Is it not ſaid *coram rege* in the King's Bench, and in the Star-Chamber *coram conſiliis noſtris*? This is a new doctrine: Shall not the King judge? Did not King Ed. IV. ſit in perſon in the King's Bench on the trial of a rape? and that famous juſtice Popham ſat at the King's feet, and other judges at the King's ſide, and therefore called *juſticiarii a latere regis*. Sure he forgot King James, who adjudged two caſes in the Star-Chamber, thoſe of Bellingham and Sir Thomas Lake. Now he ſays the parliament is the higheſt court, and the King is there at higheſt both for magnificence and power; but yet out of the parliament the King is King of England. It doth not follow becauſe he may do it in parliament, that therefore he can do it no where elſe. Oh, but the King hath proviſion for war: this is but a cunning inſinuation to make a ſurvey of the King's revenue, and to inſinuate with the people; and he begins with knight's ſervice, and theſe in dangerous places, as Dover, Durham, Cheſter; then he ſaith that eſcuage is to be aſſeſſed in parliament, though for defence of the kingdom. If that were the proper queſtion, I could ſhew when eſcuage was not by parliament, for it was by another reaſon. It was altered by an act of parliament 17 Johannis, ſtatute de Running-mead, *Nullum ſcutagium*, for it was not ſo before; alſo it concerneth the ſubject as well as the King. No man ſhall be judge in his own caſe, but therefore not the King; that held no proportion: and Kings are ſaid to do no wrong. Then he alleged, that the King is in actual poſſeſſion of the wards, that they ſhould go towards the maintenance of the war: he cannot ſhew any authority worth the valuing; neither Bracton nor Britton hath any ſuch thing. It was ſaid of the Cinque-Ports, that they have many privileges allowed them for the defence of the ſea. Is the Cinque-Port-ſervice a competent proviſion to defend a kingdom againſt hoſtilities? I know no reaſon but the whole body ſhould defend themſelves. Then they object

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that tenures in ancient demeſne were taillable without conſent; and their ſervice for the King's proviſion in the houſe, no reaſon that ſhould exclude them from the general ſervice. Then he did object there was another way of ſupply of extraordinary means, as mines in other mens' land; and here he remembered M. 3 Ric. II. prerogative comm.; difference taken between annual and caſual revenues for defence; then he objected Rot. Parl. 6 Ric. II. 11, 42. that the King would live of his own revenues; and that the mines, *&c.* ſhould be for defence of the kingdom. Onſlow, who argued the caſe, ſaid, that the King was the moſt excellent perſon both at ſea and land; therefore the royal fiſh at ſea, and the gold and ſilver mines at land, were given to him, becauſe he was able to give a ſtamp on money. The King muſt live forſooth of his ordinary revenue, M. 3 Rich. II. which expreſſeth that the King at that time would do ſo: that the King, by advice, for ſalvation of the kingdom, would uſe theſe things given unto him; that indeed was a reaſonable thing for that time, but muſt it be now turned for a neceſſity? Mr. Solicitor next affirmed, that tonnage and poundage was never given or taken of itſelf ſimply, on extraordinary defence; that in all ages before the granting tonnage and poundage, the Kings, upon a general defence, had had other aids than this, by their own power. Ordinary charge for an ordinary defence; all men muſt bear proportionably their ſhare in the charge of defence. Oh, ſay they, but this may be done in parliament: by a *may be* a man may anſwer any argument, but a *may be* will never anſwer a bill. Mr. Solicitor then quoted what he called precedents to the caſe in queſtion, and affirmed, that this right was never meant to be excepted in Magna-Charta, or any of the other ſtatutes againſt impoſitions; and that the ſtatute *De tallagio non concedendo* was no act of parliament: That Richard II.'s parliament, taking notice of his tender age, took much power upon themſelves. At the end, the Petition of Right, neither Lords nor Commons, jointly nor ſeverally, could make a new law without the King's conſent; and that the judges, and none but them, were the interpreters of the law, wiſe king James did declare. He owned that the ſtatute 31 Hen. VIII. forbad to take away inheritance or land; but here was no lands or goods taken away. Mr. Hamden had

had none of his goods touched. A commiſſion of loans 3 Car. for the defence of the kingdom: they mean the commiſſion which was a conſideration to levy monies by reaſon of the neceſſities of the times, it appeareth in the journal book to be for impoſitions, or otherwiſe to raiſe money not concerning this queſtion: it appears by that, that the King gave a gracious anſwer unto it, and that it was done for the preſent time; a warrant for advice only. It was done to raiſe money in general, but no determination of right; and ſaid at your deſires it ſhall be cancelled: then there was a commiſſion for loans 5 Feb. 2 Car. and this they ſay, it was for defence of the kingdom. It appears it was for the defence of the Palatinate and Denmark, and for that, a biſhop was ſentenced for his miſtaking. Mr. Pym brought up the articles againſt him.

Mr. Holbourn argued next: The firſt queſtion was, he ſaid, Whether upon the whole record, the caſe did appear for the King. That the 4th Auguſt 11 Car. being the day of the date of the writ, the King could charge the county of Bucks to find a ſhip at their coſts and charges: If he could, Whether he could give power to the ſheriff to aſſeſs the county? As in this caſe, admit he had power to charge and aſſeſs, Whether he could levy the money unpaid, by this courſe of certiorari and mittimus; as he might do if it was his own proper debt? The firſt, though argued fully, yet he doubted whether it ſtood rightly ſtated: Yet admitted by them, as there was a neceſſity to ſtate it on the King's part, as Mr. Solicitor had ſtated it, or wave the diſpute. Mr. Holbourn then proceeded to conſider the firſt queſtion, and ſhewed that there was no ſuch inſtant neceſſity but that a parliament might have been time enough called, to have conſidered of the means of defence. That in the writ dated the 4th of Auguſt there appeared no danger of the kingdom being then loſt; nothing but for protecting merchants and for common defence; and in the mittimus were no expreſs words of danger to the kingdom inſtant and unavoidable. Mr. Holbourn objected to the word *ſalus* in the mittimus; it was but a metaphor in writs; and in pleadings metaphors were dangerous; they did not know how to take iſſue upon them. He doubted whether if the King put particular reaſons into the writ, the law did permit any after-writ to put in farther clauſes of the ſame nature to the

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ſame end: That though it did now appear by the mittimus, that the 4th of Auguſt the kingdom was in danger of being loſt, yet this was not ſufficient in law; nor could their demurrer hurt them, becauſe it muſt have ſo appeared in the writ 4 Aug. itſelf: for the writ and declaration in law muſt ever contain preciſely ſo much of matter as is neceſſarily true to warrant the demand. If a danger declared made the caſe, how ſhould the ſubject know by the writ 4 Aug. whether to obey or not? The law bound not a man to divine; and if the ſubſequent declaration mended the caſe, then the ſubject would be a wrong doer *ex parte facti*. The negative part of my argument, ſaid he, is, that the King cannot, out of parliament, charge the ſubject; not only for guard of the ſea againſt pirates, but alſo not for the ordinary defence of the kingdom, though the King judge the kingdom to be unavoidably in danger to be loſt. My poſitive part is, that the King is regularly to be at the charge for guarding the ſea againſt pirates, and for the defence of land and ſea againſt enemies, ſo far forth as he is able; and that he has proviſion for both, eſpecially for the ſea-ſervice. Admit it be agreed, that by the policy of the kingdom the King cannot charge the ſubject, yet the King may without advice in parliament, in caſes extraordinary, where, in his judgment, the ſafety of the kingdom is in inſtant danger; and that the buſineſs will not admit the calling a parliament. Mr. Solicitor fortified this diſtinction with ſtrong reaſoning, *ſalus populi ſuprema lex*; and then, foreſeeing the encounter of a reply, he ſaith, the ſubject muſt not ſay that although the power be in the King, he will enlarge his power, for the King can do no wrong. The diſtinction between danger ordinary and extraordinary, where the King doth think a danger, and a parliament cannot be called; that diſtinction, I ſay, muſt needs deſtroy the policy of the whole; for as I conceive, the end of that policy is, that it ſhould never be in the power of any governor to become ſubject to will or error. The law-books ſay, the King can do no wrong, and therefore hath taken care that he ſhould do no wrong; for he cannot make a diſſeiſin, nor diſcontinuance; there may be an inclination to entry, but the law, becauſe he ſhould do no wrong, hath made this act void. I ſhall offer the judgments of ſeveral ſages in England;

land; they ever thought it a dangerous thing to allow any exceptions whatſoever, leſt the party who was meant to be reſtrained ſhould be judge, and then go out when he would. Thomas of Becket, he would not ſwear to the laws of king Hen. II. unleſs he might put in this expreſſion, *ſalvo honore Dei.* The King never meant to violate any of theſe; but if that had been allowed, the clergy had been judges. In all acts of parliament, where the King was to be limited or reſtrained, they would have it in words ſo punctual that they would not admit of matter of evaſion. The ſtatute 21 Ed. I. after the confirmation of two charters, and divers additions, there comes at laſt a ſalvo *jure coronæ.* Your lordſhips will find in hiſtory, how all this was ſatisfied. And 29 Ed. I. at a parliament holden at Lincoln, the King made a confirmation without a ſalvo. It may be demanded, how came in thoſe ſavings into thoſe acts, if the parliament did not like them? And if they were put in, here was a truſt. To give you the true anſwer, the exception never came in originally from both houſes, but from the Lords themſelves: Thoſe were not times of granting all or denying all; but to anſwer ſome as to ſome part, and ſometimes an exception; and this being read, the act drawn up upon the whole by the King's counſel; and this miſchief was found out 5 Hen. IV. and from that time all petitions where wholly granted or denied. Mr. Holbourn fortified theſe aſſertions with precedents; and, to ſhew fully the deſired exception, he cited the example of Normandy, which, having the ſame privileges the Engliſh ſubjects claimed, loſt them by allowing a ſalvo. Mr. Holbourn repeated Mr. St. John's objection, that if the King might charge if he would, as on occaſion, ſo on no occaſion, as to ſeventeen pounds ſo to ſeventeen hundred pounds, *ad infinitum:* and added, becauſe it is taken for a maxim, that the King can do no wrong, and therefore the law doth repoſe this truſt in him, of charging without any danger at all. I ſhall ſhew that the ſame law doth take notice, how and in what manner the King can do amiſs, and where it is ſparing to leave him a power to lay a charge on the ſubject, even in ſmall things, when the *quantum* reſts in his judgment: It is true, the law doth allow the King to command payment of money in ſome caſes; yet where the *quantum* on occaſion is ſubject to a trial, to ſay that

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the King cannot err in his natural capacity is ſtrange; human nature is not capable of ſuch a prerogative. Princes are ſubject to natural infirmities of the body, and muſt die; even ſo of the underſtanding and will. How many acts of parliament have we in print, declaring the King's miſtakes in the acts themſelves, and providing remedy for the future, yea in their own times? As the law ſaith the King may miſtake in his natural capacity, ſo it hath taken care that in his politic capacity he ſhall not; and hath provided means to prevent it, a writ of *od quod damnum*. Here Mr. Holbourn quoted law-caſes and ſtatutes to ſhew how the King was reſtrained from taxing; and deſired the judges to conſider, how unwilling the common law was to leave him at liberty to charge his ſubjects; and how he was reſtrained by acts of parliament, when the common law before did give liberty. Theſe acts of parliament he mentioned; and anſwered the objections that Mr. Solicitor had raiſed to the authenticity and meaning of theſe ſtatutes. Mr. Holbourn then brought many authorities to prove, that it was the practice of former Kings in all ages to reſort, on extraordinary occaſions, to parliament; and when they could not effect their end by that means, they made many borrowings, as appeared by the parliament rolls. What other courſes, ſays he, they have taken, appears by the former arguments; and, when the King received ſuch ſupplies, it came voluntarily, and with many proteſtations that thoſe things ſhould not be drawn into example. The people ever denied the practice of raiſing arbitrary impoſitions on them, under pretence of defence of the kingdom. Mr. Holbourn next enforced Mr. St. John's arguments concerning the proviſion the law had given the King for the defence of the kingdom; and farther inſiſted, that the King could lay no charge, not even in little things, on the public; he quoted a book caſe of the 13 Ed. IV. concerning a new office of meaſurage, *pro bono publico*, and an action brought, complained of in parliament to be againſt the ſtatutes, to provide that no taxes ſhould be laid. The anſwer was, Let the ſtatute be obſerved. Lord Latimer's caſe, condemned to die for laying impoſitions on merchandize, by the King's order. Mr. Holbourn obſerved on the proteſtation of the Commons, with the grant of tonnage and poundage to Hen. IV. To what end, ſaid he, would they

they have proteſted that it was granted of loan, and not of right, if the King might charge them another way? In that caſe, it muſt be all one to them which way they bore it, whether by tonnage and poundage, or otherwiſe. The preamble to the grant of tonnage and poundage, 1 Jac. was mentioned by Mr. Holbourn, the condemnation of the commiſſion of loans and benevolence, and the commiſſion of advice in the preſent reign, the Petition of Right, and, laſtly, the judgment of both houſes on Manwaring's ſermon. To the caſes where property yieldeth to neceſſity, which Mr. Solicitor had quoted, ſuch as a houſe on fire, a ſhip in a ſtorm, When the danger is in *proxima potentia*, anſwered Mr. Holbourn, we may prevent it. When another man's houſe be on fire, mine may be pulled down to ſtop it; ſo that we may ſee by what grounds we go in the caſe of abſolute neceſſity: If there be a ſtorm, or leak in a ſhip, that the danger be actual, it is juſtifiable for the maſter to throw out the goods; but if he ſees a cloud ariſe, and, out of fear of a ſtorm, he throw out the goods, I doubt on a jury which way this would go. My lords, concluded Mr. Holburn, there are in the caſe two points more which I ſhall move: Whether or no, admit the King could command the ſubjects to find ſhips, he can give power to the ſheriffs to make the aſſeſſment, as in the writ. The ground is upon this, that in all caſes of politic charges, the law takes an eſpecial care to make an equality. In parliaments of old, they were always careful to make proviſion that way, as upon fifteenths and ſubſidies; and in Dane-Gelt, they went ſuch a way as there could be no inequality; they went by taxing hides. Now if the law doth make this a legal way of charging, it allows the like way for aſſeſſment which is allowed in other caſes; ſuch a way as wherein there can be no inconvenience. If a hundred be charged, they have ways to lay it on themſelves proportionably. The next thing is this; admit a levy may be well made, whether the money thus paid may be brought into the Exchequer by a *ſcire facias*: I do think this is the firſt writ which ever was of this kind. I do not find it regular. My lords, I think it is hard to find where there is a writ which commands and preſcribes the manner of levy: it not only gives you power to levy, but ſets the way of levying by impoſition, by diſtreſs, by ſelling; for my part I know no caſe can match it. Sir

Sir John Banks, the attorney-general, offered his argument, with an aſſertion that this power of charging the ſubjects was *inter jura ſumma majeſtatis*, innate in the perſon of an abſolute king, and in the perſons of the Kings of England; that it was ſo inherent in the King's perſon, that it was not any ways derived from the people, nor was it confined to the political advice that the King muſt be *in cathedra*, ſitting in parliament. That the King of England had an entire empire; was an abſolute monarch: Nothing could be given to an abſolute prince which was not inherent in his perſon, as appeared by books, records, and acts of parliament. That the King held his empire immediately of the God of Heaven, and, at his coronation, his crown was elevated as a ſignification thereof *. There is an objection made, ſaid he, that if charging the people ſhould reſt in the power of the King, he might do it when there was no ground for it, and without cauſe; this is clearly againſt preſumption of law; for where the law truſteth, we ought not to diſtruſt. The King, as appeareth by all our books, is the fountain of juſtice and piety, and will do juſtice to all his ſubjects; all juſtice is derived from the King; the King, being God's lieutenant, cannot do wrong. The King could not be made an inſtrument of covin and fraud, but the patent was void. At the common law, a man committed by the King is not repleviable; if committed by his council, that is, his repreſentative body, he is not repleviable. If the King commit a man *per bouche*, he is not repleviable: For a farther reaſon, thoſe who are his delegates, or judges, are not to be miſtruſted. That which a judge doth, as in his office, ſhall not be aſſigned for error; If it be ſo in the delegate power, much more in the primitive and fountain, *&c.* the King, as he is King of England alone, for the common defence of the realm, may *ſtatuere*, &c. He may do it by the advice of his council when he pleaſes. He may ordain ſeveral ways, by the inſtitution of the common law, by his ordinance,

* The reader who is deſirous of ſeeing this attorney-general's doctrine more at large, may conſult a late publication entitled, Droit le Roi; a copy of which was burnt by the hands of the hangman, Ann. 1764.

by his proclamations, by his patents, by his writs, and, in legal matters, by his judges. That this may be done by him, it is agreeable to reaſon; for Kings were before parliaments; and then ſurely they might have done it. As juſtice doth flow from the crown originally, as it was in Moſes, ſo it is in the King of England, only in the King's perſon. But afterwards, the King did depute his deputies, and gave other powers. There was a time, when there were no municipal laws, when poſitive laws were not eſtabliſhed, when Kings did rule their people according to natural equity; ſince there have been poſitive laws, and municipal laws, the Kings of England they have ordained, as by thoſe ſeveral records cited appears. The King and his lords may make an ordinance which ſhall be as binding as a ſtatute. There is no clauſe, nor any particular in the writ 4 Aug. 11 Car. but is warranted upon many precedents, and in this thing the King doth but *jubere per legem*. For the direction it is, as in this writ, ſometimes upon one, as *probis hominibus* of ſuch a county; ſometimes the direction is to commiſſioners, ſometimes one way, ſometimes another; and of this, of the precedents themſelves, when your lordſhips come to ſee them, I ſhall ſpeak. They would have the King deſcend ſo low as to give them a reaſon why he doth it; ſome reaſons are expreſſed in the writ, as *quia periculum imminens, quia pro defenſione regni, tuitione maris, ſecuritate ſubditorum, ſalva conductione navium*, &c. My lords, all theſe are expreſſed in the records 9 Ed. III. M. 12. ſect. 10. Ed. III. M. 20. R. Alm. 12. Ed. III. M. 1. R. Alm. 13 Ed. III. M. 13. I find in theſe writs the ſame matter, power of aſſeſſments, ſometimes levies by diſtreſs, and impriſonment; nay, ſeizure of lands and tenements, goods and chattels, and that it was at the charges of the counties, both inland and maritime; this appeareth R. ſect. 8 Ed. II. M. 9. *De navigio providend.* Pat. 9 Ed. II. M. 26. Pars 2. *De navigio providendo pro cuſtodia maris.* They ſay this power of aſſeſſing the people for ſums uncertain ought to be no more than eſcuage uncertain, and muſt be aſſeſſed in parliament, a ſervice which is to be done by the tenant to his lord. What if this be ſo that it muſt be aſſeſſed in parliament? your lordſhips know, that the tenants muſt do according to the original duties of them; and

and if this be, that the lord ſhall not aſſeſs them but in parliament, is that an argument from a tenant to a lord in this caſe? This is ſervice commanded not by tenure, but a King from his ſubjects: This is ſuitable to the reaſon of law in other caſes; for thoſe ancient aids which the law doth require for the making his eldeſt ſon a knight, or *pour fille marrier*; are not thoſe certain at the common law? Muſt there be an act of parliament to aſſeſs thoſe aids? the books are otherwiſe. But they ſay the ſheriff is no proper officer, nor ſworn to execute this writ; this is as wide as the other: For, my lords, the ſheriffs are ſworn to execute all writs which ſhall be delivered to them for the King's ſervice. For the manner of levying *per diſtrictiones*, and by impriſonment of thoſe who do refuſe; is this new? It hath been ſo in all the precedents which have been vouched, doth by diſtreſs and impriſonment. They except to the penalty of the writ. The penalty of former writs have gone higher, *&c.* Mr. Attorney, in his laſt day's argument, undertook to anſwer the ſeveral acts of parliament, records, and reaſons, which had been urged on the other ſide; and to anſwer the exceptions which had been taken to the form of proceedings. The firſt act which was inſiſted on was that of William I. This he ſaid, did no way trench upon the royal power: It was inherent in the Kings of England before the Conqueſt, and here was only a conceſſion that they ſhould be free *ab omni injuſta exactione.* The next thing inſiſted on was the charter 17 Johan. This was an enforced act from a diſtreſſed King? Shall this bind the crown? For the ſtatute of Magna Charta it was made 3 Hen. III. The general words of this act did no way impeach the royal power; for the royal power was *lex terræ:* for the ſtatute *De tallagio non concedendo*, it took away no aids which were due by the law of the realm: Yet the words were general, without an exemption, as of aid for to knight the King's ſon, or to marry his daughter; yet the law was obſerved; theſe aids were not taken away; and ſo it was declared in the 25 Ed. I. cap. 11. which reduced theſe aids to a certainty. The next ſtatute objected was Ed. III. cap. 5. the words are theſe: "That no man ſhall be charged to arm himſelf otherwiſe than in the time of the King's progenitors, but where neceſſity requires, and the ſudden coming of ſtrange

enemies within the realm." So this ſtatute is relative to what had been formerly done. What hath been formerly done, appeareth by the records in the times of John and Ed. I.; that the ſubjects were to ſet forth ſhipping at their own charge, and then this ſtatute alloweth in two caſes, one where neceſſity requireth, the other upon coming of ſtrange enemies: and this writ requireth no other than where there is a neceſſity in the King's judgment. The next ſtatute is 1 Ed. III. cap. 7. where men at arms were conveyed into Scotland and Gaſcoigne without wages; the King ſaith it ſhall be ſo no more. The ſtatute mentioneth Scotland and Gaſcoigne, foreign wars. The next ſtatute was, the 18 Ed. III. cap. 7. men of arms, hobellers, and archers, ſhall be at the King's ſervice; the ſtatute ſpeaketh likewiſe of going out of England: But he who is upon the defence of the ſea, it is no going out of England. The next ſtatute was 25 Ed. III. cap. 8. no man ſhall be compelled to find men of arms, hobellers, and archers, otherwiſe than thoſe who hold of ſuch ſervice, without conſent: This ſtatute of 25 Ed. III. doth not take away former laws; theſe three ſtatutes of 1 Ed. III. 18 Ed. III. and 25 Ed. III. are recited in the ſtatute 4 Hen. IV. and it is enacted, they ſhall be firmly holden, and kept in all points; ſo, if theſe ſtatutes muſt be kept firmly in all points, then the ſtatute 25 Ed. III. doth not repeal any of theſe. They have objected, continued Mr. Attorney, the counſel of the ſages of the realm in the time of Ric. II. This is no act of parliament, but a communication between the Lords and Commons in the nonage of a young prince, who did not aſſent. The next ſtatute objected was 9 Ric. II. a tenth and a half, and a fifteenth, granted to the King, on condition that the great officers of the kingdom ſhould be named in parliament, and ſervants appointed for diſpenſe of the monies. If the King doth accept of ſubſidies and aids upon condition, does this take away his royal power? There is no more done in this than was in the parliament 21 Jac. for there the officers and treaſurer were appointed by the houſes of parliament. Farther, it appeareth this was granted *pro viaggio Johannis regis de Caſtile*; and not for the cuſtody of the ſea. The next record inſiſted on was, a tenth and a half, and a fifteenth and a half,

granted with a proteſtation that it ſhould not be brought into example; this is nothing, no more than the other; a proteſtation can no way prejudice the crown in this. The King's ſpeech 7 Ed. IV. is objected. My lords, this is nothing but a gracious ſpeech of the King to his ſubjects, that he would charge them but in ſuch caſes as ſhould concern the defence of the realm. The ſtatute next objected was 1 Ric. III. This is no benevolence, but a legal due. Next they object to the ſtatutes of tonnage and poundage granted to the crown for the defence of the realm. In anſwer to this I ſay, that there is no act for tonnage and poundage which is now in force; neither are any duties taken to the crown upon act of parliament; thoſe acts for tonnage and poundage which have been granted make for the crown. If your lordſhips look into the ſtatutes 1 Eliz. and 1 Jac. it was given towards the King's charges, not intended of extraordinary defence. In the next place, they inſiſted on the Petition of Right, 3 Car. It was never intended that any power of the King, by his prerogative, ſhould be taken away or leſſened by it. I dare be bold to affirm, for I was of that parliament, and was preſent at the debate, that there was never a word ſpoken in the debate of taking away any power of the King for the ſhipping buſineſs; beſides, it is declared, aſſented to, and denied by none, that there was no intention by the Petition of Right to take away the prerogative of the King: The King thereby did grant no new thing, but did only confirm the antient and old liberties of the ſubject. For an anſwer to ſcandalous objections, it hath been ſaid, by Mr. Holburn, of theſe ſtatutes of the 25 Ed. I. and 28 Ed. I. that at the time of making theſe laws they were poſitive; no ſuch ſalvo was in them of the King's prerogative; that the acts before Hen. IV. were penned by the King's council, and thoſe clauſes of a ſalvo crept in by the King's council: Theſe were bold and preſumptuous aſſertions of the acts of parliament made in the time of Ed. I. that there ſhould be any clauſes added by the King's council which ſhould not be added in the record. Mr. Attorney, having proceeded to make frivolous objections to all which had been quoted in favor of the ſubject, concluded with this piece of ſophiſtry: "Your lordſhips have obſerved, ſaid he, that in all my diſcourſe I

have not inſiſted any way upon any power of impoſition, neither is it the queſtion in this buſineſs; for no man's property is invaded; no ſeizure of any man's goods, unleſs they incur it by contempt, and by a wilful contempt the ſubject may loſe his property. For the ſentence of Dr. Manwaring, it is nothing to this purpoſe: this writ denieth not the property to be in the ſubject, but ſaith the ſubject hath the property, and therefore commandeth the ſheriff to diſtrain him if he will not pay. They have objected Dr. Cowell's book, which was called in: I wiſh they had read the proclamation; there are three cauſes expreſſed: Firſt, becauſe he had written things derogatory to the crown: Secondly, for———and thirdly, ſpeaking irreverently of the common law: Juſt like to the men who do not ſpare to wade into all the deep myſteries of princes, who are gods upon earth. For their objection that the King hath a revenue belonging to the crown, for the defraying all ordinary and extraordinary charges, and for the guards of the ſea, as tenures, &c. my lords, it is not for us who are lawyers to look into the ſecrets of the King's revenue: The ſtory of Acteon might deter men from looking into the ſecrets of princes. They ſay there was no ſufficient danger expreſſed in the writ 4 Aug. 11 Car. they ſay a ſupply by the mittimus comes too late, and that the words of the mittimus are not a good affirmative. For this, I have given it an anſwer, that it was not neceſſary to repreſent the danger in the writ: but, my lords, for the ſatisfaction of his people, the King expreſſed ſufficient cauſe in the writ, *quia ſalus regni periclitabatur*. They ſay, that there was no danger repreſented at this time when the writ was out. That is miſtaken, for the writ of mittimus doth recite the writ 4 Aug. and that ſaith, *quod quidem prædones, piratæ*, &c. which ſhews that danger was the cauſe of the iſſuing theſe writs. They except at this word *ſalus*; it is a phyſical word, and ſignifieth health, and you muſt have no metaphors in writs. Surely the grammarians tell us, that *ſalus* is taken *pro incolumitate*, as well for ſafety as for health. Metaphors are uſual in writs. I dare be bold to ſpeak, there are more metaphors in the regiſter than in any book. Then they have left no ſtone unrolled in this caſe; now they ſay the King's teſtimony in his writ is inſufficient: Under

favor, the *teſte meipſo* is without exception; we are bound to give credit to it. The next exception was taken to the *ſcire facias*, that this *ſcire facias* ought not to go forth for the debt; and two reaſons were given for it, firſt, the writ 4 Aug. doth direct a form of levying, which is by diſtreſs, or impriſoning thoſe who are rebels; ſecondly, it is no debt to the King, and therefore ought not to be levied by the *ſcire facias*. My lords, for this, this duty is due to the commonwealth; it is *pro defenſione regni*, *theſaurus publicus reſpicit regem*; whoſoever ſhall detain any public duty, he may be queſtioned by the King as the head of the body politic; this *ſcire facias* is grounded upon the whole matter, the writ 4 Aug. the *certiorari*, and mittimus, and commandeth that the defendants ſhall ſhew cauſe why they ſhould not pay the money aſſeſſed upon them by the county."

After the pleadings of the lawyers, the judges proceeded to give their opinions, which each introduced by a ſpeech, in which they argued the caſe. Mr. Baron Weſton began: He obſerved that Mr. Holbourn's exception to the words in the mittimus, that it did not make good the defect of the writ, was frivolous, for the demurring to all had confeſſed all; whereas it had been objected, that if this power of raiſing money were admitted, it would keep back parliaments. If this power be in the King, and it be juſt and equal, then it is not to be taken from him, becauſe he may miſemploy his power; if he miſuſe his power, the fault is his; this objection cannot be made unleſs you ſuppoſe injuſtice in the King: Make what laws you will, if the King be unruly he will break them. For my part, I am ſatisfied there is an apparent danger, and that there is a neceſſity this danger ſhould be prevented.

Mr. Juſtice Crawley charged the plantiffs with talking impertinently of tonnage and poundage, when there was no ſuch grant on record; of ſhip-money having been charged for three years together, of great ſums of money impoſed upon merchandize: then you talk, continued he, of the ſubjects loſing their property; but this rather to abuſe the people without either color or ſhadow. If you at the bar had not ſpoke it *argumenti gratia*, it could not but have proceeded out of the depth of malice, or ignorance, or both. If one be found guilty of murder, and

the judge knoweth the contrary, what ſhall be done? He ought to acquaint the King therewith, for it is the King's right of ſovereignty to pardon, but the judge hath no ſuch power. I ſay the whole caſe appertaineth to the King only, and he is the ſole judge both of the defence of ſea and land. Among the royal prerogatives, Mr. Juſtice Crawley reckoned the power to impoſe taxes without conſent of parliament; and ſaid, that the King as *pater patriæ* was, by the law of nature, entruſted with the defence of the kingdom; and this power to tax his people was but a conſequence of that: Albeit ſubſidies be a gift and grant, yet this is in right and reaſon; if the ſon give to the father when he wants, it is his duty. You have alleged precedents both before the Conqueſt and ſince: That of the Dane-Gelt, though it was a heavy yoke, yet it was neceſſary to be borne; whether it was granted by parliament or no, *non conſtat*; I ſay it is a good precedent, and I hold it good without parliament. Some diſtreſſed Kings, as king John, Hen. II. and Ric. II. they did indeed do that by borrowing which they might have took of right. Now to give an anſwer to the ſtatutes of 25 Ed. I. and 14 Ed. III. and the Petition of Right 3 Car. admit, I ſay, there were an expreſs act that the King, were the realm in ever ſo much danger, ſhould not have aid from his ſubjects but in parliament, it is a void act. Will any man ſay ſuch an act will bind; this power is as inſeparable from the crown, as the pronouncing war and peace is: In ſome caſes it is neceſſary to leave the words of the law, and to follow that which reaſon and juſtice requireth, and to that intent equity is ordained. This impoſition without parliament appertains to the King originally, and to the ſucceſſor *ipſo facto*, if he be a ſovereign in right of his ſovereignty from the crown. You cannot have a king without theſe royal rights; no, not by act of parliament. Again, theſe acts bind not, for that a favorable conſtruction, in caſe of the King, is to be had in all caſes. You ſay this tax hath continued for three years; put the caſe the danger continueth for three years, and then the King ceaſeth to lay a charge, and the danger begins again the next year; what, ſhall not the King require aid as the danger increaſeth? And now to conclude without repetition, it doth appear by this record, that the whole kingdom is in danger both by ſea and land, of ruin

and

and deſtruction, diſhonor and oppreſſion; and that danger is preſent, imminent, and inſtant; and greater than the King can, without the aids of ſubjects, well reſiſt: Whether muſt the King reſort to parliament? No, we ſee the danger is inſtant, and admits of no delay. Shall we go home and ſit together in careleſs ſecurity? Not ſo; but let us reſort to our pious and juſt King, whoſe prerogative and right of ſovereignty is to defend the realm, and to maintain his ſubjects' liberties. And ſo I give judgment for the King.

Mr. Juſtice Berkley's exordium was, that the people of the kingdom were ſubjects not ſlaves, freemen not villains, to be taxed *de alto & baſſo:* Though the King of England had a monarchical power, and had *jura ſummæ majeſtatis*, and had an abſolute truſt ſettled in his crown and perſon, for the government of his ſubjects; yet his government was to be *ſecundum leges regni.* The ſubject had in their goods a property, a peculiar intereſt, a *meum & tuum.* They had a birthright in the laws of the kingdom; no new laws could be put upon them; none of their laws could be altered or abrogated without their conſent in parliament. Thus much I ſpeak, ſaid Mr. Juſtice, to avoid miſapprehenſions and miſreports upon that which I ſhall ſay in this caſe; not as if there were cauſe of ſaying ſo much upon any thing challenged on the King's ſide. We have in print his majeſty's moſt gracious declaration, that it is his maxim, that the peoples' liberties ſtrengthen the King's prerogative; and that the King's prerogative is to defend the peoples' liberties. It is plain that as originally, even before the Romans' time, the frame of this kingdom was a monarchical ſtate, ſo for divers hundreds of years paſt, upon the Romans' deſertion of it, and after the Heptarchy ended, it was, and continued, and ſtill continueth, monarchical: And our gracious ſovereign is a monarch, and the rights of free monarchy appertain unto him; and yet ſtill with this, that he muſt *leges*, &c. Where Mr. Holburn ſuppoſed a fundamental policy in the creation of the frame of this kingdom, that in caſe the monarch of England ſhould be inclined to exact from his ſubjects at his pleaſure, he ſhould be reſtrained, for that he could have nothing from them but upon a common conſent in parliament; he is utterly

utterly miſtaken therein; the law knows no ſuch king-yoaking policy. I never heard nor read that *lex* was *rex*; but it is common and moſt true, that *rex* is *lex*: for he is *lex loquens*, a living, a ſpeaking, an acting law. There are two maxims of the law of England which plainly diſprove Mr. Holbourn's ſuppoſed policy; the firſt is, that the King is entruſted with the ſtate of the commonwealth; the ſecond is, that the King cannot do wrong: Upon theſe two maxims, the *jura ſummæ majeſtatis* are grounded, with which none but the King himſelf, not his high court of parliament, without leave, hath to meddle, as namely, war and peace, value of coin, parliament at pleaſure, power to diſpenſe with penal laws, and divers others; among which I range this alſo of regal power, to command proviſion in caſe of neceſſity; otherwiſe I do not underſtand how the King's majeſty may be ſaid to have the majeſtical right and power of a free monarch. It is the King's right to have ſupply: Supply is not merely a benevolence from the people. The ſame law which wills the King to defend his people, wills alſo, that the people grant to him of their goods in aid of their defence. Give me leave to ſay, that the parliament is but a *concilium*: the King may call it, prorogue and diſſolve it at his pleaſure; and whatſoever the King doth therein, is always to be taken for juſt and neceſſary. In granting the Petition of Right, his majeſty, who knows his own heart and ſincere meaning beſt, in his ſecond ſpeeches to both houſes, ſaith, that it moſt needs be conceived that he had granted no new, but only confirmed antient priviledges. Had there been any expreſs clauſe in thoſe ſtatutes which I have before cited, that no charge ſhould be impoſed without common conſent, no, not for neceſſary defence of the kingdom, I certainly believe, that neither king Ed. I. nor king Ed. III. nor our ſovereign, would ever have yielded to ſo diſhonorable and unjuſt an expreſſion. Neceſſity and the *ſalus reipublicæ* are, by a reaſonable intendment, clearly out of the ſtatute *De tallagio non concedendo* and the Petition of Right, as if the ſame had been preciſely excepted; a literal expoſition will make laws for the good of the commonwealth prove the bane and ruin of it. It hath been ſaid, that in the preſent caſe, the King hath not proceeded *per juſticiarios*, but *per ſe*, or in *camera*.

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I anſwer, that in our caſe, there is not any thing done in *camera*; the ſhipping-writ iſſueth out of the court of Chancery; Beſides, we are not now in the caſe of aſſeſſing a fine; if we go to diſtinction, there is *potentia abſoluta*, and *poteſtas ordinaria*: I hope none will deny but that the King hath *poteſtatem abſolutam* in many caſes. A man may be committed *per ſpeciale præceptum domini regis*, and is not in that caſe bailable. The King is *capitalis juſticiarius Angliæ*; I put you the caſe of Hill, 2 Ed. III. p. 6. One having money of the King's wherewith to pay ſoldiers, miſuſed it, and committed many outrages in Lancaſhire; a writ iſſued to the ſheriff of Lancaſter to attach him. Being by virtue thereof attached, and brought to the King's Bench, he was there diſcharged; the reaſon given by Scroop the chief-juſtice was, becauſe the attachment, being grounded upon a ſuggeſtion, was againſt the law; no ſuch writ ought to have iſſued, unleſs there had been ſome indictment, preſentment, or information depending. But I doubt not, if the King had by his abſolute power made a ſpecial precept in his chamber for commitment of this man, he could not have been diſcharged. It has been objected, that ſhip-money is to become an annual charge upon the people; there is cauſe of thinking ſo, becauſe, ſince 11 Car. we have had every year new ſhipping-writs. If the neceſſity continues, the charge muſt continue: The ſame reaſon ſerves for the continuance as was for the beginning of it. Yet I deny that of itſelf it may be annual; this muſt be left to his majeſty's juſtice, which God forbid that any ſhould think he will abuſe. Caſes of neceſſity, caſes of *bonum publicum*, and caſes of *ſalus reipublicæ*, are not compriſed within ordinary rules.

Mr. Juſtice Vernon. The King, for the ſafety and defence of the kingdom, may charge his ſubjects, notwithſtanding any act of parliament; moreover, a ſtatute derogatory from the prerogative doth not bind the King; the King may diſpenſe with any law in caſes of neceſſity.

Mr. Baron Trevor ran up the antiquity of the monarchy five hundred years before the birth of Chriſt, and confirmed it by a letter from the pope to king Lucius; and added, "Our King hath as much power and prerogative belonging to him, as any prince in Chriſtendom hath. It

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is proper for Kings to command, and ſubjects to obey. We who are the judges of the kingdom have paid this tax, therefore it is fit our opinions concur with our actions in this caſe."

Sir George Crook, juſtice of the King's Bench, argued next. He diſſented from the reſt of his brethren, and ſaid, he held the writ not good at common law; admit it was good at common law, yet it was againſt divers ſtatutes; that no pretence of danger could warrant it. That there was no prerogative in the crown or power royal for it. That it was the firſt writ deviſed of the kind, and the firſt put in practice either in inland counties or maritime parts; and that there was not any one precedent nor any one record judicial, or judgment in point of law for it; that the commands of it were againſt the common and ſtatute law; that the aſſeſſments of the writ were not warrantable by the law: If no good writ, the *ſcire facias* would not lie, and the *certiorari* did not well iſſue as the caſe was. That the King could not impoſe any kind of tax upon his ſubjects. Theſe Mr. Juſtice Crook proved by rules of law, reſolutions of parliament, ſtatutes, and the cuſtom of the kingdom ſince the confirmation of thoſe ſtatutes. By the old law of Alfred, he ſaid, parliaments were to be holden once a-year, and by expreſs ſtatute made 4 Ed. III. 14. a parliament was to be holden every year, if need require it; and by another ſtatute for avoiding grievances, a parliament was to be holden every year. The imagination of man cannot invent a danger, but courſe may be taken for defence, till a parliament be had. So for my part, added Sir George Crook, I hold this point of neceſſity cannot be held a ſufficient ground for this writ: The King can do no wrong, 2. Ed. III. A patent is made, which is a wrong to the ſubject, the King *de jure regis* ought to revoke that patent; a King to have a royal power or prerogative to do that by his writs which is againſt the expreſs laws of his kingdom, is not admitted by the law; the royal power is to be taken away, for as it is before ſaid by Forteſcue, he can change no law, nor charge his people but by common conſent in parliament. Precedents make no right; but if that is admitted, there is not one precedent of writs going all over England before now. Clauſes have been in former writs, in caſes of array, to diſtrain if they refuſe to pay; but never in caſe of levying money

money to impriſon. It is clearly againſt Magna Charta to be impriſoned, unleſs indicted by due proceſs of law. It is not according to law, to command a ſhip of war, of four hundred and fifty tons, and then to turn it into money. For if a ſhip were made by a county, the county ſhould have it again; but in this caſe, the *ſcire facias* is brought to have the money: For the *certiorari*, it is directed to the ſheriff out of office, and ought not ſo to be; all writs are directed to the preſent ſheriff; admit the *ſcire facias* ſhould go forth, it would do ſomething, *onerari*, &c. To whom or how? nothing here; but *ſcire facias quare onerari non debet*; but to whom *onerari* it doth not appear. If the ſheriff levy the money, and do not beſtow it on a ſhip, he is accountable. It doth not appear that this ſhip was built, there is no preparation for a ſhip, the ſum aſſeſſed is not legal, the writ is not legal, becauſe it varieth from all former precedents. It varieth in the time, in the manner, for ſoldiers wages to inland counties, which was never before.

A more labored argument of this judge, on this caſe, was afterwards preſented to the King: He confutes all the fallacies and falſe aſſertions of the crown lawyers. "It hath been objected, ſaid he, that by the demurrer, the danger of the kingdom is confeſſed, and ſo it is to be allowed for a caſe of neceſſity To this I anſwer, that the demurrer confeſſeth not matters, but where the matter is legally ſet down; but if it be not a legal proceeding, then the demurrer is no confeſſing the matter of fact. Where, by breach of ſea-walls, any inundation is in the country, the King ſendeth out commiſſioners to cauſe all who have lands or commons to be contributary to the making up the ſea-walls; this is done by enquiry of a jury; and this charge cannot be laid on a county or town in general, but upon particular men who have loſs or benefit, or may have loſs or benefit thereby; ſo it is at this day upon commiſſions of ſewers, as appeareth by Coke. It hath been ſaid, that tonnage and poundage is not now granted to the King, and therefore the King is enforced to theſe extraordinary courſes; though it be not granted, yet I think it is taken, and I doubt not but to the ſame intent for which it was firſt granted, the defence of the kingdom, and guard of the ſeas. It is objected, that perhaps

perhaps the parliament would not have conſented, and ſo the kingdom might have been loſt. It is not to be preſumed, that the parliament would deny to do that which is fit for the ſafety and defence of the kingdom, their own eſtates and lives being in danger: But I confeſs, I think if it had been moved in parliament, they would never have conſented to theſe writs, ſuch never having been awarded before ſince the Conqueſt; and if they had conſented, they would have taken a courſe how the ſame ſhould have been made with the moſt conveniency, and not to have left it to the ſheriff to tax them how he would. To the objection, that a ſtatute to inhibit ſuch a defence were void, I anſwer, that if a ſtatute were that the King ſhould not defend the kingdom, it were void: But a ſtatute that men ſhould not be charged without common conſent of parliament, is a good law, and agreeable to reaſon. I conceive, if the common law were doubtful whether ſuch a charge might be impoſed by writ, yet now it is made clear by divers expreſs ſtatutes. Mr. Solicitor labored much to prove, that there was no ſuch ſtatute *De tallagio non concedendo*. To this I anſwer, it was never doubted to be a ſtatute until this argument; and that it is a ſtatute appeareth, firſt, for that it is printed in the book of ſtatutes for a ſtatute: Secondly, it is recited in the Petition of Right to be a ſtatute. To that it is not found in the rolls, I anſwer, that many ſtatutes, which are known ſtatutes, are not found in the rolls, as Magna Charta is not; and that it is a ſtatute all my brothers have agreed. The only doubt then is, Whether this ſtatute extendeth to aid for defence of the kingdom? I think it doth; for it is the preciſe words of it, That no taillage or aid ſhall be impoſed but by grants in parliament. By this law, ſaith Bodinus, the ſubjects of England have defended themſelves ever ſince, as with a buckler: whereby it appeareth, that this was held to be a ſtatute in force in foreign parts." Sir George Crook anſwered every frivolous objection which had been made to the other ſtatutes, and to their efficacy, and concluded with the Petition of Right, which he aſſerted was done by the advice of the judges, and was full in this point, "That the ſubject ſhould not be charged without their conſent." He concluded with obſerving, that the queſtion

tion was not what had been done *de facto*, but what might be done *de jure*. Multitudes of precedents, unleſs confirmed by judicial proceedings in courts of record, were not to be regarded, and none of theſe were ever confirmed by judicial record, but complained of. To give a more clear anſwer to them, he had read all the records which had been ſent him on the King's part, and having taken notes of every one of them, and diligently conſidered them, he conceived there was not any precedent or record of any ſuch writ ſent to any ſheriff of any inland county, to command the making ſhips at the charge of the county: That this is the firſt precedent, ſince the Conqueſt, produced of this kind.

Mr. Juſtice Jones argued in the following ſtyle: "When danger is imminent, the charge muſt be borne by all; it muſt not be every kind of fear or rumor which muſt draw a burthen on the ſubject, but ſuch a danger as the King, in his underſtanding, perceiveth doth require a ſpeedy defence. This power of the King of which I argue, is a ſpecial prerogative in point of government."

Mr. Juſtice Hutton argued, that the power of aſſeſſing money could not by law be impoſed upon the people, without mutual conſent in parliament: He anſwered the reaſons, precedents, and objections, of thoſe who argued on the other ſide; obſerved that parliaments ought to be frequent; and concluded with animadverting on the illegal powers which the writ had given to the ſheriff.

Sir John Denham being confined with illneſs, ſent a certificate that he gave his opinion for Mr. Hamden.

Lord-chief-baron Davenport argued, that aids granted by parliament were not merely voluntary, but duties: The imperial power of commanding aids, in caſe of neceſſity, belonged to the crown. The King, in expectancy of danger, may charge his ſubjects. If an act of parliament ſhould reſtrain ſuch a charge, in caſe of neceſſity, it would be *felo de ſe*, and ſo void; for it would deſtroy the *jus regale*. He diſſented from the majority of his brethren in the point of giving the power of taxation to the ſheriff, and proved that the antient and uſual manner of taxes and aſſeſſes, by the cuſtom of England, was not at the voluntary pleaſure of the great officer of the county; but a jury was choſen to aſſeſs the county, and power was given

given to two others out of every town to aſſeſs the aſſeſſor: He objected next to the manner of proceeding againſt Mr. Hamden, that the *certiorari* ſhould not have iſſued ſo long after the firſt writ; it ſhould have been returned whilſt it was in force, and referred by another court, and the party preſented by a jury upon default, and the King have remedy upon preſentation and indictment; that judgment could not be given for the King upon the *ſcire facias*; for in the writ it was expreſly provided, that the money ſhould be employed to no other uſe but the preparation of the ſhip therein mentioned. It did not now appear who were collectors therein appointed to receive the money, whereby it became chargeable to the King; it did not appear upon the record, that any ſhip was provided, or that any fault was in them who were employed, or of ſurpluſage in the collectors hands; it was not ſo legally executed, as the King might have a writ of *ſcire facias*. The *ſcire facias* was, that Mr. Hamden ſhould ſhew cauſe why he ſhould not ſatisfy the ſum impoſed upon him; but whom he ſhould ſatisfy, or to whom the money ſhould be paid, *non conſtat*, as was well opened upon the demurrer: For it is not, *ſi dominus Rex valet aut debeat onerare* the defendant, but that the defendant *oneretur*, *& inde ſatisfac.*: Nothing is put into the record to bring money to the King; therefore *quod oneretur* could not be executed at all. Laſtly, that the mittimus was only the tenor of the record, and not the record itſelf; in ſuch a caſe a *ſcire facias* could not iſſue, for it was but the extract of the record: The mandates in the writ 4 Aug. were not good in law, nor well grounded upon the certificate; the information afterwards in the mittimus could not make a formal writ good, which was firſt defective, and the return of the ſheriffs was not effectual: For theſe reaſons judgment was to be given for Mr. Hamden.

Sir John Finch began with large profeſſions of a perfect integrity, which he introduced with the following cant: "I hope none of us forget the duty we owe to God and the King and commonwealth, and to ourſelves: I ſhall endeavor to ſatisfy my conſcience in all which I ſhall ſay; and they forget their duty to the firſt, and humanity towards us, who ſay or think the contrary of any one of us. It cannot be preſumed but that we ſhould ſpeak our conſciences,

ſciences, ſince we well know, ſhortly, as the Pſalmiſt ſays, "Corruption ſhall ſay, I am thy father, and the worm, I am thy mother." On entering into the cauſe, he blamed Mr. Hamden for bringing the caſe to judgment, and complained that *arcana imperii*, nay *imperium ipſum*, had been too licentiouſly treated at the bar; he argued, that the King had a property in every ſubject's goods, for the common good in times of neceſſity; none could ſhare with the King in his abſolute power; the King was not bound to call parliaments, nor to continue them, but at his pleaſure; the parliament was an honorable court, he confeſſed it; an excellent means of charging the ſubjects, and defending the kingdom, he owned it; but it was not the only means: The beſt way to redeem thoſe loſt privileges was to give all opportune appearance of obedience and dutifulneſs to his majeſty's commands. There was a King before a parliament; for how elſe could there be an aſſembly of King, Lords, and Commons? And then what ſovereignty was there in the kingdom but his? The law which gave the King the ſovereignty of defending, gave him alſo power to charge his ſubjects for the neceſſary defence of the kingdom; private property muſt give way to the public; this King will charge his ſubjects, but only upon urgent neceſſity; an act of parliament cannot bar a King of his regality, nor bind him not to command his ſubjects goods or money. Sir John Finch farther aſſerted, that Dane-Gelt, or ſomething in lieu of it, remained ſtill, for it was not taken away by any act of parliament: and that the precedents which had been cited on the King's ſide proved that the power was in him to charge his ſubjects; and that the precedent of 2 Rich. II. was no good precedent, ſeeing the King was young, and the parliament had the regency. That what the King had taken he had ſpent upon the public occaſions; he had it from his own royal mouth: But let Kings be as David was, men after God's own heart, they would not want a Shimei to rail at them. But no abuſe of any thing muſt take away the true and lawful uſe thereof; but it could not be ſuſpected there would be an abuſe; *Ubi confidit Deus & lex, & nos etiam confidimus.* It had been objected, that the writ was illegal, becauſe contrary to Magna Charta, *Nullus liber homo impriſonetur.*

There was no imprisonment in question, but the assessment only; why he should not pay the money assessed, or shew cause to the contrary? Sir John Finch farther asserted, that the manner of assessment by the sheriff was legal and proper; and that the writ of *scire facias* was good, and all the proceedings in the case were well grounded, and according to law.

Sir John Brampston, lord-chief-justice of the King's Bench, argued with the majority of his brethren. There is a necessity to prevent a necessity; the aid commanded in this case is not against the great laws concerning the subjects' liberty, because it is no taillage, but a service. He inclined to the opinion of the lord-chief-baron in his exception to the record *quod oneretur*, and not know to whom it should be. His opinion in all other points agreed with the general vote of the court. *State Trials*, vol. I. p. 493, *& seq.*

END of the SECOND VOLUME.

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